



KwaDukuza

Municipality

("THE MUNICIPALITY")

POLICY ON LONG-TERM FINANCIAL PLANNING

INDEX

	Page No.
1. Definitions	3
2. Introduction	4
3. Purpose	4
4. Financial Strategy Framework	5
5. Financial Management Policies	8
6. Revenue	10
7. General Provision	10
8. Policy Adoption	11

1. DEFINITIONS

In this policy, unless the context indicates otherwise, a word or expression, to which a meaning has been assigned in the Municipal Finance Management Act (MFMA) No. 56 of 2003, has the same meaning.

“Accounting Officer” it means Municipal Manager of KwaDukuza Local Municipality or his/ her delegate.

“GRAP” means the Generally Recognised Accounting Standards.

“IDP” it's a shortened name for Integrated Development Plan.

“MFMA” it's a shortened name for Municipal Finance Management Act, Act 56 of 2003.

“Municipality” for the purpose of this policy it means KwaDukuza Local Municipality.

2. INTRODUCTION

- 2.1 Financial Management is the cornerstone of any organisation. Controls and policies must be in place to achieve sound financial management. Over the first year of the 5-year plan, financial regulations and policies must be reviewed to ensure all legal, internal control and social requirements are met. Implementing the projects included in the 5-year plan will require large capital investment, which in turn requires effective management and control.
- 2.2 KwaDukuza Municipality has to recognise that to be successful the IDP must be linked to workable financial plans which include a multiyear budget.
- 2.3 A long-term financial planning is prepared for a period of at least three years, however it is preferred that it should be for over a period of five or more years.
- 2.4 The long-term financial planning will also ensure that the Municipality has greater financial health and sustainability, making it easier to collaborate on projects with other levels of Government and various public and private stakeholders. This will further enhance the ability of the Municipality to have access to more financing, funding and grants.

3. PURPOSE

- 3.1 The purpose of this policy is to outline the comprehensive long-term financial planning that will ensure long-term financial sustainability for the Municipality.
- 3.2 A long-term financial planning is essential to ensure that the Municipality continues to implement its mandate effectively without impairing its capital base. It will also enable the Municipality to move towards self-sufficiency in meeting the growing demands of Service Delivery and infrastructure requirements.
- 3.3 A long-term financial planning is important by identification and prioritization of expected needs based on the Municipality's Five-Year Integrated

Development Plan and details estimated amounts of funding various sources.

4. FINANCIAL STRATEGY FRAMEWORK

The priority for the Municipality, from the financial perspective is to ensure viability and sustainability of the Municipality. The long-term financial planning and related strategies will therefore need to address a number of key areas in order to achieve this priority. These strategies are detailed below:

4.1 Revenue enhancement strategy:

- a) To seek alternative sources of funding.
- b) Expand Income base through implementation of new Valuation Roll.
- c) The ability of the Community to pay for services.
- d) Identification and pursuance of Government Grants.
- e) Tightening Credit Control measures and Debt Collection Targets.
- f) Improve customer relations and promote a culture of payment.
- g) Realistic Revenue estimates.
- h) The impact of inflation, the Municipal cost index and other cost increases;
- i) The creation of an environment which enhances growth, development and service delivery.

4.2 Asset Management Strategy:

- a) The implementation of a GRAP compliant Asset Management System.
- b) Adequate Budget provision for Asset Maintenance over their economic lifespan.
- c) Maintenance of asset according to an Infrastructural Asset Management Plan.
- d) Maintain a system of internal control of assets to safeguard assets.
- e) Ensure all assets owned and control except specific exclusions are covered by insurance.

4.3 Financial Management Strategies:

- a) To maintain an effective system of Expenditure control including procedures for the approval, authorization, withdrawal and payment of funds.
- b) Preparation of the Risk Register and application of Risk Control.
- c) Implement controls, procedures, policies and by-law to regulate fair, just and transparent transaction.
- d) Training and development of Senior Financial staff to comply with prescribed minimum competency level.
- e) Implement GRAP standards as gazette by National Treasury.
- f) Prepare annual financial statement timeously and review performance and achievements for past financial years.

4.4 Operational Financing strategies:

- a) Effective cash flow management to ensure continuous, sufficient and sustainable cash position.
- b) Enhance budgetary controls and financial reporting.
- c) Direct available financial resources towards meeting the projects as identified in the IDP.
- d) To improve Supply Chain Management processes in line with regulations.

4.5 Capital Funding Strategies:

- a) Ensure service delivery needs are in line with Long-term Financial Planning.
- b) Careful consideration / prioritisation on utilising resources in line with the IDP.
- c) Analyse feasibility and impact on operating budget before capital projects are approved.
- d) Determine affordable limits for borrowing.
- e) Source external funding in accordance with affordability.
- f) Improve capital budget spending.
- g) Maximizing of infrastructural development through the utilisation of all available resource.

4.6 Cost effective Strategy:

- a) Invest surplus cash not immediately required at the best available rates.
- b) Restrict capital and operating expenditure increase in relation to the inflation rate taking into consideration the macro growth limit guideline and Municipal cost increase.
- c) To remain as far as possible within the following selected key budget assumptions:
 - i. Provision of bad debts of at least 2%.
 - ii. Overall cost escalation to be linked to the average inflation rates.
 - iii. Tariff increase to be in line with inflation plus Municipal growth except when regulated.
 - iv. Utilisation of Equitable Share for indigent support through Free Basic Services.
 - v. Maintenance of assets of at least 6% of total operating expenditure.
 - vi. Capital cost to be in line with the acceptable norm of 18%

4.7 **Measurable Performance Objective for revenue:**

- a) To maintain the Debtors to revenue ratio below 10%.
- b) To maintain a Debtors payment rate of above 90%.
- c) To ensure that the Debtors return remain under 40 days.
- d) To keep the Capital cost on the Operating Budget less than 18%.

5. **FINANCIAL MANAGEMENT POLICIES**

The purposes of Financial Policies are to provide a sound environment to manage the financial affairs of the Municipality. The following are key budget related policies:

5.1 **Tariffs Policy**

Tariffs Policy prescribes the procedures for calculating tariffs charged to the consumers. This policy is required in terms of Section 74 of the Local Government Municipal System Act, Act 32 of 2000.

5.2 **Rates Policy**

Rates Policy required by the Municipal Property Rates Act, Act 6 of 2004. This Policy provides the framework for the determination of property rates.

5.3 **Indigent Support Policy**

This policy is to ensure that the Municipality is providing and regulate access to free basic to all registered indigents.

5.4 **Budget Policy**

Budget Policy set out the principles which must be followed in preparing Medium Term Revenue and Expenditure Framework Budget. It further ensures that the Budget reflects the strategic outcomes embodied in the IDP and related strategic policies.

5.5 **Asset Management Policy.**

The objective of Asset Management Policy is to prescribe the accounting and administrative procedures relating to the property, plant and equipment.

5.6 Accounting Policy

The Accounting policy describes the basis of presentation of the Annual Financial Statements in accordance with the Generally Recognised Accounting Practices (GRAP) and Accounting Standards.

5.7 Supply Chain Management Policy

SCM Policy is developed in terms of Section 111 of the MFMA Act 56 of 2003. The principles of this Policy is to give effect to a fair, equitable, transparent, competitive and cost effective system for the procuring of goods and services, disposing of goods and selecting of contractors in the provision of Municipal Services.

5.8 Subsistence and Travel Policy

The S&T Policy regulates the reimbursement of travelling and subsistence costs to officials and Councilors attending official business.

5.9 Credit Control and Debt Collection Policy.

This Policy provides for Credit and Debt Collection Procedures and mechanisms to ensure that all consumers pay for the services that are supplied by the Municipality.

5.10 Cash Management, Banking and Investment Policy.

This Policy must be established in terms of section 13 of MFMA act 56 of 2003 and Municipal Investment Regulation R308 to ensures that cash resources are managed in the most efficient and effective manner possible.

6. REVENUE

- 6.1 In order for the Municipality to serve the Community and to render the services needed, revenue generation is fundamental to financial sustainability of every municipality.
- 6.2 The Municipality must table a balanced and more credible Budget, based on realistic estimation of revenue that is consistent with the budgetary resources and collection experience.
- 6.3 The Municipality derives its revenue from the provision of services such as electricity, cleansing and solid waste. A considerable portion of the Revenue is also derived from property rates and grants by National Governments as well as other minor charges such as traffic fines

7. GENERAL PROVISIONS

7.1 Commencement:

This Policy will come into effect on the date of adoption by the Council of the KwaDukuza Local Municipality.

7.2 Interpretation of this policy:

- i. All words contained in this policy shall have the ordinary meaning attached thereto, unless the definition or context indicates otherwise.
- ii. The dispute on interpretation of this policy shall be declared in writing by any party concerned.
- iii. Municipal Manager shall give a final interpretation of this policy in case of written dispute.

7.3 Permanent/temporary waiver or suspension of this policy:

- i. This policy may be partly or wholly waived or suspended by KwaDukuza Local Municipality on temporary or permanent basis.

7.4 Compliance and enforcement:

- i. Violation of or non-compliance with this policy will give a just cause of disciplinary steps to be taken by KwaDukuza Local Municipality.
- ii. It will be the responsibility of the Accounting Officer or his/her delegated official to enforce compliance with this policy.

7.5 Amendment and /or abolition of this policy:

This policy maybe amended or repealed by KwaDukuza Local Municipality as it may deem necessary to do so.

8. POLICY ADOPTION

This policy has been considered and approved by the **COUNCIL OF KWADUKUZA LOCAL MUNICIPALITY** as follows:

Board Resolution No:.....

Approval Date:.....



KwaDukuza

Municipality

("The Municipality")

**POLICY ON INFRASTRUCTURE
INVESTMENT AND CAPITAL
PROJECTS**

INDEX

	Page No.
1 Definitions	2
2 Introduction	2
3 Objectives of the policy	2
4 Key Issues to be met	3
5. Financial Strategies	3
6. Capital and Investment Programmes	4
7. Multiyear Budget	4
8. Policy Adoption	5

1. DEFINITIONS

"Municipality" means KwaDukuza Local Municipality

"MFMA" means the Municipal Financial Management Act (Act No 56 of 2003).

"CFO" means the Chief Financial officer of the Municipality.

"Accounting Officer" means the Municipal Manager of the Municipality.

"MIG" Municipal Infrastructure Grant

2. INTRODUCTION

Municipalities are responsible for **providing infrastructure services** to all of its communities, industries, and other consumers in its area of jurisdiction. One of the key areas of delivery for government has been in supplying new infrastructure to meet the backlog in the provision of basic services and broadening the service delivery foot print across the country while keeping abreast of growth and migratory patterns within the society. However, today there is a need to ensure that these services will be sustainable in the future, and that the necessary institutional, financial and technical measures are in place to achieve this goal. This document provides a brief overview of tools aimed at assisting municipalities in achieving these goals by integrating them into a single planning vehicle.

3. OBJECTIVES OF THIS POLICY

The objectives of this policy are to:

- (a) Ensure that the municipality are able to deliver the levels of service needed for health and safety.
- (b) Enable the municipality to improve existing service levels.
- (c) Suggest how the municipality might structure investment in a manner that promotes economic development.
- (d) Encourage the municipality to locate investment in infrastructure with a view to integrating previously disadvantaged and rural communities.
- (e) Promote the infrastructure which is environmentally sustainable.

- (f) Ensure that requirements with regards to MIG and the latest Division of Revenue Bill are compiled with.

4. KEY ISSUES TO BE MET

It is the municipality's responsibility to provide all of its communities with the necessary infrastructure services for energy, access and transport, and solid waste, as well as ensure that other key services (e.g. education, health, sports and recreation, and community services) are planned in collaboration with the relevant service providers. This calls for the following actions:

- (a) Ensuring that the necessary **infrastructure assets** are provided, operated and maintained (i.e. addressing their full life cycle).
- (b) Ensuring that the necessary **funding** is available for the total costs involved over the full extent of the life cycle of the assets, by collecting revenue from consumers and utilizing available grant funds, and providing the required operating and capital funds to achieve the goals.
- (c) Ensuring that an **institutional model** exists for providing the necessary skills, processes and procedures to manage the assets.
- (d) Ensuring that the necessary **bulk supplies** (e.g. for electricity, as well as maintenance capacity) are available.
- (e) Ensuring that the growth needs of the municipality are addressed by considering local **economic development** initiatives, and taking cognisance of changing needs of communities while involving them in planning the provision of the above services.

5. FINANCIAL STRATEGIES

The implementation of the following financial strategies will enhance the future financial sustainability of the municipality.

5.1 Capital Financing Strategy

- (a) Dedicate a particular person to the function of raising grants, identify, establish, maintain, and update database of all grant funders, and undertake project feasibility studies and project plans.
- (b) Approach funding organisations with business plans and the financial Plan.
- (c) Liaise with the District Municipality to set up a separate bank account for each local municipality so that the interest earned on grants received for each municipality is accounted for separately.
- (d) Ensure that all requirements with regards to MIG and DORA or any other legislation are compiled with as per the Division of Revenue Act and MIG requirements found on the National Treasury website at www.treasury.gov.za

5.2 Asset Management Strategy

- (a) Establish and maintain an asset register.
- (b) Update asset register regularly.

5.3 Financial Management

- (a) Formulate a timetable, capacitate the financial officer and transfer the relevant accounting skills.
- (b) Develop/review policies, procedures and bylaws.
- (c) Provide councillors with the necessary financial training so they understand the financial information that they must base their decisions on.

6. CAPITAL AND INVESTMENT PROGRAMMES

The capital and investment programmes as set out in the Capital Budget and the Cash Management, Banking, and Investment Policy

7. MULTIYEAR BUDGET (Financial Projections)

Financial projections have been developed using the capital budget to obtain the list of infrastructure projects for the budget. Various financial feasibility

studies pertaining these capital projects are performed and assessed and aligned to the IDP.

All the related studies should take in cognisance of the following:

- a) A five-year projection of the operating and capital budget reflecting the required tariff ratio increases;
- b) Funding currently available to undertake projects;
- c) Financial resources required for capital projects;
- d) Inflationary increases.

8. POLICY ADOPTION

This policy has been considered and approved by the **COUNCIL OF KWADUKUZA LOCAL MUNICIPALITY** as follows:

Council Resolution No:.....

Approval Date:.....

SUPPLY CHAIN MANAGEMENT POLICY 2019/2020



LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003**Date of adoption: [01/07/2019]**

Council C ____ resolves in terms of section 111 of the Local Government Municipal Finance Management Act (No. 56 of 2003), to adopt the following proposal as the Supply Chain Management Policy of KwaDukuza Municipality.

TABLE OF CONTENTS

1. Definitions

CHAPTER 1**IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY**

2. Supply chain management policy
3. Amendment of supply chain management policy
4. Delegation of supply chain management powers and duties
5. Subdelegations
6. Oversight role of council
7. Supply chain management units
8. Training of supply chain management officials

CHAPTER 2**SUPPLY CHAIN MANAGEMENT SYSTEM**

9. Format of supply chain management system

Part 1: Demand management

10. System of demand management

Part 2: Acquisition management

11. System of acquisition management
12. Range of procurement processes
13. General preconditions for consideration of written quotations or bids
14. Lists of accredited prospective providers
15. Petty cash purchases
16. Written or verbal quotations
17. Formal written price quotations
18. Procedures for procuring goods or services through written or verbal quotations and formal written price quotations
19. Competitive bidding process
20. Process for competitive bidding
21. Bid documentation for competitive bids
22. Public invitation for competitive bids
23. Procedure for handling, opening and recording of bids
24. Negotiations with preferred bidders
25. Two-stage bidding process
26. Committee system for competitive bids
27. Bid specification committees
28. Bid evaluation committees
29. Bid adjudication committees
30. Procurement of banking services
31. Procurement of IT related goods or services
32. Procurement of goods and services under contracts secured by other organs of state
33. Procurement of goods necessitating special safety arrangements
34. Proudly SA Campaign
35. Appointment of consultants
36. Deviation from, and ratification of minor breaches of, procurement processes
37. Unsolicited bids

38. Combating of abuse of supply chain management system

Part 3: Logistics, Disposal, Risk and Performance Management

39. Logistics management
40. Disposal management
41. Risk management
42. Performance management

Part 4: Other matters

43. Prohibition on awards to persons whose tax matters are not in order
44. Prohibition on awards to persons in the service of the state
45. Awards to close family members of persons in the service of the state
46. Ethical standards
47. Inducements, rewards, gifts and favours
48. Sponsorships
49. Objections and complaints
50. Resolution of disputes, objections, complaints and queries
51. Contracts providing for compensation based on turnover
52. Calculation of the Preferential Point System
53. Cancellation and re-invitation of bids
54. Award of contracts
55. Green Procurement
56. Cost Containment
57. Sub-contracting
58. Remedies

Part 5: Standard operating procedures

ANNEXURE A – GOODS RECEIVED / SERVICES RENDERED

ANNEXURE B – OPENING OF TENDER DOCUMENTS

ANNEXURE C – 2 ENVELOPE SYSTEM TENDER

ANNEXURE D – SECTION 32 PROCUREMENTS

ANNEUXRE E – SECTION 36 PROCURMENTS

ANNEXURE F – UNSOLICITED BIDS

ANNEXURE G - DISPOSALS

ANNEXURE H – SUB-CONTRACTING

1. Definitions

In this Policy, unless the context otherwise indicates, a word or expression to which a meaning has been assigned in the Act has the same meaning as in the Act, and –

“BBBEE” means broad based black economic empowerment as defined in Section 1 of the Broad Based Black Economic Empowerment Act.

“B-BBEE status level of contributor” means the B-BBEE status of an entity in terms of a code of good practice on black economic empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

“black designated groups” has the meaning assigned to it in the codes of good practice issued in terms of Section 9(1) of the Broad Based Black Economic Empowerment Act.

“black people” has the meaning assigned to it in Section 1 of the Broad Based Black Economic Empowerment Act.

“co-operative” means a co-operative registered in terms of Section 7 of the Co-operatives Act 2005 (Act no.14 of 2005)

“co-opted external specialist advisor” any person or official contracted by the municipality or appointed by the Accounting Officer to provide technical support to the Business Unit

“competitive bidding process” means a competitive bidding process referred to in paragraph 12 (1) (d) of this Policy;

“competitive bid” means a bid in terms of a competitive bidding process;

“Contract Participation Goal (CPG)” must mean the value of work to be subcontracted to enterprises or businesses factored according to their level of HDI/PPG equity ownership as set and approved in the bidding documents;

“designated group” means

- (a) black designated groups
- (b) black people
- (c) women
- (d) people with disabilities
- (e) small enterprises as defined in Section 1 of the National Small Enterprise Act 1996 (Act no. 102 of 1996)

“designated sector” means a sector, sub-sector or industry or product designated in terms of Regulation 8 (1) (a)

“EME” means an exempt micro enterprise

“final award”, in relation to bids or quotations submitted for a contract, means the final decision on which bid or quote to accept;

“formal written price quotation” means quotations referred to in paragraph 12 (1) (c) of this Policy;

“functionality” means the ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender documents.

“in the service of the state” means to be –

- (a) a member of –
 - (i) any municipal council;
 - (ii) any provincial legislature; or

- (iii) the National Assembly or the National Council of Provinces;
- (b) a member of the board of directors of any municipal entity;
- (c) an official of any municipality or municipal entity;
- (d) an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No.1 of 1999);
- (e) a member of the accounting authority of any national or provincial public entity; or
- (f) an employee of Parliament or a provincial legislature;
- (g) EPWP employees
- (h) audit committee
- (i) traditional leaders

“long term contract” means a contract with a duration period exceeding one year;

“list of accredited prospective providers” means the list of accredited prospective providers which the **municipality** must keep in terms of paragraph 14 of this policy;

“military veteran” has the meaning assigned to it in Section 1 of the Military Veterans Act of 2011 (Act no. 18 of 2011)

“A neutral or independent observer” independent / impartial, not directly involved in the supply chain management processes appointed by the Accounting Officer on an adhoc basis

“other applicable legislation” means any other legislation applicable to municipal supply chain management, including –

- (a) the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);

- (b) the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003); and
- (c) the Construction Industry Development Board Act, 2000 (Act No.38 of 2000);
- (d) the Preferential Procurement Regulations, 2017

“panel of service providers” pre-qualified, appointed on rotational basis

“people with disabilities” has the meaning assigned to it in Section 1 of the Employment Equity Act of 1998 (Act no 55 of 1998)

“price” includes all applicable taxes, less all unconditional discounts

“Priority population group” means black individuals who fall into population groups that were not offered a franchise in the national elections before or after the introduction of the 1984 tri-cameral parliamentary system and only received a franchise during 1994;

“proof of BBBEE status level of contributor” means:-

- (a) BBBEE status level certificate issued by an authorized body or person
- (b) a sworn affidavit as prescribed by the BBBEE codes of good practice
- (c) any other requirement prescribed in terms of the BBEE Act

“rand value” means the total estimated value of the contract in rand, calculated at the time of the tender invitation

“rural area” means

- (a) sparsely populated area in which people far more depend on natural resources, including villages and small towns that are dispersed through the area or

- (b) an area including a large settlement which depends of migratory labour and remittances and government social grants for survival, and may have a traditional land tenure system

“S.O.P” means standard operating procedure

“stipulated minimum threshold” means the minimum threshold stipulated in terms of Regulation 8 (1) (b) of the PPR of 2017

“sub-contracting” means one who takes a portion of a contract from the principal contractor or from another subcontractor.

“transversal contracts” contracts secured by National Treasury

“Treasury” has the meaning assigned to it in section 1 of the Public Finance Management Act, 1999 (Act no 1 of 1999)

“Treasury guidelines” means any guidelines on supply chain management issued by the Minister in terms of section 168 of the Act;

“the Act” means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);

“the Regulations” means the Local Government: Municipal Finance Management Act, 2003, Municipal Supply Chain Management Regulations published by Government Notice 868 of 2005;

“township” means an urban living area that anytime from the date 19 century until 27 April 1994, was reserved for black people including areas developed for historically disadvantaged individuals post 27 April 1994.

“ Turnkey” means a procurement process where one service provider assumes total responsibility for all aspects of the project and delivers in full end products/service required by the contract.

“QSE” means qualifying small enterprise

“written or verbal quotations” means quotations referred to in paragraph 12(1)(b) of this Policy.

“municipality” means KwaDukuza Municipality.

“youth” has the meaning assigned to it in Section 1 of the National Youth Development Agency Act, 2008 (Act no 54 of 2008)

CHAPTER 1

IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

Supply chain management policy

2.

- (1) All officials and other role players in the supply chain management system of the municipality must implement this Policy in a way that –
 - (a) gives effect to –
 - (i) section 217 of the Constitution; and
 - (ii) Part 1 of Chapter 11 and other applicable provisions of the Act;
 - (b) is fair, equitable, transparent, competitive and cost effective;
 - (c) complies with –
 - (i) the Regulations; and
 - (ii) any minimum norms and standards that may be prescribed in terms of section 168 of the Act;
 - (d) is consistent with other applicable legislation;
 - (e) does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres; and
 - (f) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.

- (2) This Policy applies when the municipality –
 - (a) procures goods or services;
 - (b) disposes of goods no longer needed;
 - (c) selects contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies; or
 - (d) selects external mechanisms referred to in section 80 (1) (b) of the Municipal Systems Act for the provision of municipal services in circumstances contemplated in section 83 of that Act.

- (3) This Policy, except where provided otherwise, does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the Act, including –
 - (a) water from the Department of Water Affairs or a public entity, another municipality or a municipal entity; and
 - (b) electricity from Eskom or another public entity, another municipality or a municipal entity.
- (4) For all technical related projects this policy must be read in line with the supply chain management policy for infrastructure procurement and service delivery.

Amendment of the supply chain management policy

3.

- (1) The Municipal Manager must –
 - (a) at least annually review the implementation of this Policy; and
 - (b) when the Municipal Manager considers it necessary, submit proposals for the amendment of this Policy to the council.
- (2) If the Municipal Manager submits proposed amendments to the council that differs from the model policy issued by the National Treasury, the accounting officer must –
 - (a) ensure that such proposed amendments comply with the Regulations; and
 - (b) report any deviation from the model policy to the National Treasury and the relevant provincial treasury.
- (3) When amending this supply chain management policy the need for uniformity in supply chain practices, procedures and forms between organs of state in all spheres, particularly to promote accessibility of supply chain management systems for small businesses must be taken into account.

Delegation of supply chain management powers and duties

4.

- (1) The council hereby delegates all powers and duties to the municipal manager which are necessary to enable the Municipal Manager –
 - (a) to discharge the supply chain management responsibilities conferred on accounting officers in terms of –
 - (i) Chapter 8 or 10 of the Act; and
 - (ii) this Policy;
 - (b) to maximise administrative and operational efficiency in the implementation of this Policy;
 - (c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of this Policy; and
 - (d) to comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.
- (2) Sections 79 and 106 of the Act apply to the sub-delegation of powers and duties delegated to an accounting officer in terms of sub-paragraph (1).
- (3) The Municipal Manager may not sub-delegate any supply chain management powers or duties to a person who is not an official of municipality or to a committee which is not exclusively composed of officials of the municipality.
- (4) This paragraph may not be read as permitting an official to whom the power to make final awards has been delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this Policy.

Sub-delegations

5.

- (1) The Municipal Manager may in terms of section 79 or 106 of the Act sub-delegate any supply chain management powers and duties, including those delegated to the accounting officer in terms of this Policy, but any such sub delegation must be consistent with sub-paragraph (2) of this paragraph and paragraph 4 of this Policy.

- (2) The power to make a final award –
 - (a) Above R10 million (VAT included) may not be sub-delegated by the Municipal Manager;
 - (b) Above R2 million (VAT included), but not exceeding R10 million (VAT included), may be sub-delegated but only to –
 - (i) a bid adjudication committee of which the Chief Financial Officer or senior manager is a member.
 - (c) For a threshold exceeding R200 000 but not exceeding R2 million (VAT included) may be sub-delegated but only to –
 - (i) a bid adjudication committee.

- (3) Bid adjudication committee to which the power to make final awards has been sub-delegated in accordance with subparagraph (2) must within five days of the end of each month submit to the municipal manager a written report containing particulars of each final award made by such official or committee during that month, including–
 - (a) the amount of the award;
 - (b) the name of the person to whom the award was made; and
 - (c) the reason why the award was made to that person.

- (4) Sub-paragraph (3) of this paragraph does not apply to procurements out of petty cash.

- (5) This paragraph may not be interpreted as permitting an official to whom the power to make final awards has been sub-delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this Policy.
- (6) No supply chain management decision-making powers may be delegated to an advisor or consultant.

Oversight role of council

6.

- (1) The council of a municipality must maintain oversight over the implementation of this Policy.
- (2) For the purposes of such oversight the Municipal Manager must –
 - (a)
 - (i) Within 30 days of the end of each financial year, submit a report on the implementation of this policy, to the council of KwaDukuza Municipality; and
 - (ii) Whenever there are serious and material problems in the implementation of this policy, immediately submit a report to the council.
- (3) The Municipal Manager must, within 10 days of the end of each quarter, submit a report on the implementation of the supply chain management policy to the Mayor.
- (4) The reports must be made public in accordance with section 21A of the Municipal Systems Act.

Supply chain management unit**7.**

- (1) A supply chain management unit is hereby established to implement this policy.
- (2) The supply chain management unit operates under the direct supervision of the Chief Financial Officer or an official to whom this duty has been delegated in terms of section 82 of the Act.

Training of supply chain management officials**8.**

The training of officials involved in implementing this Policy should be in accordance with any Treasury guidelines on supply chain management training.

- (c) provide for the compilation of the required specifications to ensure that its needs are met.
- (d) To undertake appropriate industry analysis and research to ensure that innovations and technological benefits are maximized.

Part 2: Acquisition management

System of Acquisition Management

11.

- (1) The Municipal Manager must implement the system of Acquisition Management set out in this Part in order to ensure –
 - (a) That goods and services are procured by the municipality in accordance with authorised processes only;
 - (b) That expenditure on goods and services is incurred in terms of an approved budget in terms of section 15 of the Act;
 - (c) That the threshold values for the different procurement processes are complied with;
 - (d) That bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation; and
 - (e) That any Treasury guidelines on acquisition management are properly taken into account.
- (2) When procuring goods or services contemplated in section 110(2) of the Act, the Municipal Manager must make public the fact that such goods or services are procured otherwise than through the municipality's supply chain management system, including –
 - (a) Water from the Department of Water Affairs or a public entity, another municipality or a municipal entity; and

- (b) electricity from Eskom or another public entity, another municipality or a municipal entity.

Range of procurement processes

12.

- (1) Goods and services may only be procured by way of –
 - (a) petty cash purchases, up to a transaction value of **R 200** (VAT included);
 - (b) two written quotations for procurements of a transaction value up to R2000 (VAT included);
 - (c) three written quotations for procurements of a transaction value of R2000 up to R10 000 (vat included)
 - (d) three formal written price quotations for procurements of a transaction value over R10 000 up to R30 000 (VAT included); and
 - (e) formal written price quotations for procurements of a transaction value over R30 000 up to R200 000 (VAT included); and
 - (f) a competitive bidding process for–
 - (i) procurements above a transaction value of R200 000 (VAT included); and
 - (ii) the procurement of long term contracts.
- (2) The Municipal Manager may, in writing-
 - (a) lower, but not increase, the different threshold values specified in subparagraph (1); or
 - (b) direct that –
 - (i) written quotations be obtained for any specific procurement transaction value lower than R2000;
 - (ii) formal written price quotations be obtained for any specific procurement of a transaction value lower than R10 000; or
 - (iii) a competitive bidding process be followed for any specific procurement of a transaction value lower than R200 000.

- (3) Goods or services may not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirements of the policy. When determining transaction values, a requirement for goods or services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction.
- (4) In respect of 12(1)(b) and 12(1)(c) a Munsoft electronic rotational system based on the registered database of suppliers or CSD will be utilized for the respective goods or services to be procured. e.g. Catering, advertising, servicing and minor repairing of air conditioners, repairs to tyres, auto electrical works, breakdown services
- (5) The following goods or services shall be procured preferably through the ward / clusters in which the goods or services are required for catering, marques, chairs and sound equipment for ward based meetings.
 - (i) Catering and associated goods or services for ward based meetings
 - (ii) Transportation from relevant area based taxi associations.
 - (iii) The per unit cost as determined by council for catering shall be incremented annually in line with the CPIX as determined by the National Treasury annually in relation to the budget preparation directive for each financial year
 - (iv) the municipality will determine the prices for the above goods or services on an annual basis
- (6) No competitive bidding shall be utilized for goods or services that are price regulated e.g. fuel / gas; or provided by a manufacturing agent or RMI Accredited or AA (for all vehicles outside factory warranty) e.g. servicing / repairing vehicles
 - (i) and training conducted by other organs of state
 - (ii) repairs to radios and repeaters for communication

- (iii) fuel or gas (regulated)
 - (iv) goods or services sourced from a manufacturer or manufacturing agency e.g. vehicles and plant services; electrical equipment, repairs to emergency lights and sirens, calibrations or repairs to speed timing machines, Alco meters, meter reading, fire equipment
 - (v) Munsoft financial system, BAUD Asset Management System, Microsoft Software, VIP, Windeed, Intellicash, Team Mate, On Key, Digicore, Fleet Services
 - (vi) meal vouchers for standby staff
- (7) Targeted procurement
- (a) The Council has taken the decision to economically empower youth, women and people living with disabilities. This set aside approach is aimed at addressing previously disadvantaged people through economic empowerment.
 - (b) The Accounting Officer will identify goods and services that will be given to the co-operatives; QSE's and EME's composed of youth, women and people living with disabilities, i.e.: -
 - i. Cleaning of drains
 - ii. Construction of V-drains
 - iii. Printing and stationery
 - iv. Cleansing material
 - v. Refreshments
 - vi. Building Maintenance (e.g. Community Halls) ,
 - vii. Plot Clearing,
 - viii. Tree cutting and felling, (where necessary),

- ix. Building material e.g. concrete works (i.e. blocks, bricks, paving bricks etc) and sand,
- x. Site establishment goods /services e.g. toilet hire, site fencing, security etc,
- xi. Construction of temporary shelter during the emergency /disaster,
- xii. Potholes repairs,
- xiii. Training

The accounting officer may deem fit any other targeted procurement.

- (c) Co-operatives must be at least 51% youth owned, 51% women owned, 51% people living with disabilities as outlined in the PPR of 2017.
- (d) Set aside will mainly deal with goods and services up to a threshold of R200 000.00 vat inclusive
- (e) The Accounting Officer will advertise and call for co-operatives to be registered on the National Treasury Central Supplier Database.
- (f) The co-operatives will be awarded goods or services on a rotational basis or will be requested to compete amongst themselves in order to inculcate good business ethos.
- (g) A report must be submitted to council on the implementation of the "Set Aside Approach" on a quarterly basis.
- (h) Only co-operatives, QSE's or EME's who reside in the KwaDukuza Municipal area of jurisdiction and who appear on the voter's roll of KwaDukuza Municipality will be considered.

General preconditions for consideration of written quotations or bids**13.**

A written quotation or bid may not be considered unless the provider who submitted the quotation or bid –

- (a) has furnished –
 - (i) full name;
 - (ii) identification number or company or other registration number; and
 - (iii) tax reference number and VAT registration number, if any;
- (b) has submitted a tax clearance from the South African Revenue Services that the provider's tax matters are in order; and
- (c) has indicated –
 - (i) whether he or she is in the service of the state, or has been in the service of the state in the previous twelve months;
 - (ii) if the provider is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the state, or has been in the service of the state in the previous twelve months; or
 - (iii) whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in subparagraph (ii) is in the service of the state, or has been in the service of the state in the previous twelve months.

Lists of accredited prospective providers**14.**

- (1) The Municipal Manager must –
 - (a) keep a list of accredited prospective providers of goods and services that must be used for the procurement requirements through written or verbal quotations and formal written price quotations; and
 - (b) at least once a year through newspapers commonly circulating locally, the website and any other appropriate ways, invite prospective providers of goods or services to apply for evaluation and listing as accredited prospective providers;
 - (c) specify the listing criteria for accredited prospective providers; and
 - (d) disallow the listing of any prospective provider whose name appears on the National Treasury's database as a person prohibited from doing business with the public sector.
- (2) The list must be updated at least quarterly to include any additional prospective providers and any new commodities or types of services. Prospective providers must be allowed to submit applications for listing at any time.
- (3) The list must be compiled per commodity and per type of service.
- (4) That KwaDukuza Municipality will source goods or services directly from the Central Supplier Database which was implemented by National Treasury.

Petty cash purchases**15.**

The conditions for procurement of goods by means of petty cash referred to in paragraph 12 (1) (a) of this Policy, are as follows –

- (a) The Chief Financial Officer may, in writing, delegate the responsibility to monitor Petty Cash purchases to the Accountant: Expenditure
- (b) Goods and services may only be procured by way of petty cash, up to a transaction value of R200 (VAT included).
- (c) A maximum of five petty cash purchases per month will be allowed for each departmental section.
- (d) Petty cash levels should be kept at R4500 by the Director Expenditure.
- (e) Petty cash may only be used for the following types of expenditure: refreshments, catering, gifts, wheel repairs, and other small items.
- (f) A monthly reconciliation report from the Accountant Expenditure must be submitted to the Chief Financial Officer, including –
 - (i) the total amount of petty cash purchases for that month; and
 - (ii) receipts and appropriate documents for each purchase.

Written or verbal quotations**16.**

The conditions for the procurement of goods or services through written or verbal quotations are as follows:

- (a) Quotations must be obtained from at least two different providers for procurement ranges of between R200 and R2000 and three different providers for procurements above R2000 and preferably from, but not limited to, providers whose names appear on the list of accredited prospective providers of the municipality, provided that if quotations are

- obtained from providers who are not listed, such providers must meet the listing criteria set out in paragraph 14(1)(b) and (c) of this Policy;
- (b) to the extent feasible, providers must be requested to submit such quotations in writing;
 - (c) if it is not possible to obtain at least three quotations for procurements above R2000 the reasons must be recorded and reported quarterly to the Municipal Manager or another official designated by the Municipal Manager;
 - (d) the Municipal Manager must record the names of the potential providers requested to provide such quotations with their quoted prices;
 - (e) if a quotation was submitted verbally, the order may be placed only against written price confirmation from the all bidders ;

Formal written quotations

17.

- (1) The conditions for the procurement of goods or services through formal written price quotations are as follows:
 - (a) quotations above R10 000 must be obtained in writing from at least three different providers whose names appear on the list of accredited prospective providers of the municipality;
 - (b) quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria set out in paragraph 14(1)(b) and (c) of this Policy;
 - (c) if it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the Chief Financial Officer or an official designated by the Chief Financial Officer,
 - (d) the Municipal Manager must record the names of the potential providers and their written quotations, and

- (2) A designated official referred to in subparagraph (1) (c) must within three days of the end of each month report to the Chief Financial Officer on any approvals given during that month by that official in terms of that subparagraph.

Procedures for procuring goods or services through written or verbal quotations and formal written price quotations

18.

The procedure for the procurement of goods or services through written or verbal quotations or formal written price quotations is as follows:

- (a) when using the list of accredited prospective providers the accounting officer must promote ongoing competition amongst providers by inviting providers to submit quotations on a rotation basis;
- (b) all requirements in excess of R30 000 (VAT included) that are to be procured by means of formal written price quotations must, in addition to the requirements of paragraph 17, be advertised for at least seven days on the website and an official notice board of KwaDukuza Municipality;
- (c) the Accounting Officer must take all reasonable steps to ensure that the procurement of goods or services through written or verbal quotations or formal written price quotations is not abused
- (d) offers received must be evaluated on a comparative basis taking into account unconditional discounts;
- (e) the Municipal Manager or Chief Financial Officer must on a monthly basis be notified in writing of all written or verbal quotations and formal written price quotations accepted by an official acting in terms of a sub delegation;
- (f) offers below R30 000 (VAT included) must be awarded based on compliance to specifications and conditions of contract, ability and capability to deliver the goods and services and lowest price;

- (g) subject to Section 28(1)(f) of this policy, sub-regulation 9 and Regulation 11 of the PPR 2017, the contract must be awarded to the tenderer scoring the highest points.;
- (h) Preference for the award of goods or services to be given to bidders residing in:
 - (i) In the KwaDukuza Municipal Wards / Clusters in which the project will be rendered
 - (ii) The KwaDukuza Municipal area of jurisdiction,
 - (iii) The ILembe District
 - (iv) The KZN province and
 - (v) The Republic of South Africa
- (i) Proof of address by way of municipal utility bill must be provided for (h) above or the service provider must be registered on the voters roll.
- (j) Contracts may be expanded or varied by not more than 20% for construction related goods, services and infrastructure projects and 15% for all other goods or services of the original value of contract. Anything above the above mentioned thresholds must be reported to council. Any expansion or variation in excess of these thresholds must be dealt with in terms of the provisions of Section 116(3) of the MFMA which would be regarded as an amendment to the contract.
- (k) MFMA Circular 49 issued in 2009 and Section 65 (2) (e) of the Municipal Finance Management Act of 2003 states "that all monies owing by the municipality be paid within 30 days of receiving the relevant invoice or statement, unless prescribed otherwise for certain categories of expenditure. (refer SOP – Annexure A)
- (l) Validity period for construction related goods/ services and infrastructure projects is 56 days or in exceptional cases 84 days and for all other goods or services the validity period is 90 days (consecutive days).

- (m) Only those service providers who are registered with a CIDB Grading of 1 and 2 will be considered for award.

Competitive bids

19.

- (1) Goods or services above a transaction value of R200 000 (VAT included) and long term contracts may only be procured through a competitive bidding process, subject to paragraph 11(2) of this Policy.
- (2) No requirement for goods or services above an estimated transaction value of R200 000 (VAT included), may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.

Process for competitive bidding

20.

The procedures for the following stages of a competitive bidding process are as follows:

- (a) Compilation of bidding documentation as detailed in paragraph 21;
- (b) Public invitation of bids as detailed in paragraph 22;
- (c) Site meetings or briefing sessions as detailed in paragraph 22;
- (d) Handling of bids submitted in response to public invitation as detailed in paragraph 23;
- (e) Evaluation of bids as detailed in paragraph 28;
- (f) Award of contracts as detailed in paragraph 29;
- (g) Administration of contracts
 - (i) After approval of a bid, the accounting officer and the bidder must enter into a written agreement.

- (h) Proper record keeping
- (i) Original / legal copies of written contract agreements should be kept in a secure place for reference purposes

Bid documentation for competitive bids

21.

The criteria with which bid documentation for a competitive bidding process must–

- (a) take into account –
 - (i) the general conditions of contract and any special conditions of contract, if specified;
 - (ii) any Treasury guidelines on bid documentation; and
 - (iii) the requirements of the Construction Industry Development Board (CIDB), in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;
- (b) include the preference points system to be used, goals as contemplated in the Preferential Procurement Regulations and evaluation and adjudication criteria, including any criteria required by other applicable legislation;
- (c) compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;
- (d) if the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish–
 - (i) if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements –
 - (aa) for the past three years; or
 - (bb) since their establishment if established during the past three years;

- (ii) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days;
 - (iii) particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;
 - (iv) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from KwaDukuza Municipality is expected to be transferred out of the Republic; and
- (e) stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law.

Public invitation for competitive bids

22.

- (1) The procedure for the invitation of competitive bids, is as follows:
 - (a) Any invitation to prospective providers to submit bids must be by means of a public advertisement in eTender or newspapers commonly circulating locally, the website of the municipality or any other appropriate ways (which may include an advertisement in the Government Tender Bulletin); and
 - (b) The information contained in a public advertisement, must include –
 - (i) the closure date for the submission of bids, which may not be less than 30 days in the case of transactions over R10 million (VAT included), or which are of a long term nature, or 14 days in any

- other case, from the date on which the advertisement is placed in eTender or a newspaper, subject to sub-paragraph (2) of this policy;
- (ii) a statement that bids may only be submitted on the bid documentation provided by KwaDukuza Municipality ;and
 - (iii) date, time and venue of any proposed site meetings or briefing sessions.;
 - (iv) statement stating that no late bid proposal will be accepted.
- (2) The Municipal Manager may determine a closure date for the submission of bids which is less than the 30 or 14 days requirement, but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow the official procurement process.
- (3) Bids submitted must be sealed.
- (4) Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies.

Procedure for handling, opening and recording of bids (refer SOP – Annexure B)

23.

The procedures for the handling, opening and recording of bids, are as follows:

- (a) Bids–
 - (i) must be opened only in public;
 - (ii) must be opened at the same time and as soon as possible after the period for the submission of bids has expired; and
 - (iii) received after the closing time should not be considered and returned unopened immediately.

- (b) Any bidder or member of the public has the right to request that the names of the bidders who submitted bids in time must be read out and, if practical, also each bidder's total bidding price;
- (c) No information, except the provisions in subparagraph (b), relating to the bid should be disclosed to bidders or other persons until the successful bidder is notified of the award; and
- (d) The Municipal Manager must –
 - (i) record in a register all bids received in time;
 - (ii) make the register available for public inspection; and
 - (iii) publish the entries in the register and the bid results on the website.

Negotiations with preferred bidders

24.

- (1) The Municipal Manger may negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders, provided that such negotiation –
 - (a) does not allow any preferred bidder a second or unfair opportunity;
 - (b) is not to the detriment of any other bidder; and
 - (c) does not lead to a higher price than the bid as submitted.
- (2) Minutes of such negotiations must be kept for record purposes.
- (3) The Municipal Manager delegates the Head: SCM, Director Legal and the Head of the Business Unit or his nominee and the Budget Office (observer) to enter into negotiations in line with (1) and (2) above and report back to the Tender Adjudication Committee for a threshold not exceeding R10m.
- (4) For thresholds exceeding R10m, the Municipal Manager, the Chief Financial Officer and the Executive Director of the Business Unit may enter into negotiations but keeping in line with (1) and (2) above.

Two-stage bidding process (refer SOP – Annexure C)**25.**

- (1) A two-stage bidding process is allowed for –
 - (a) large, complex projects;
 - (b) projects where it may be undesirable to prepare complete detailed technical specifications; or
 - (c) long term projects with a duration period exceeding three years.
- (d) When the municipality seeks to enter into a contract for the purpose of research or study or planning.
- (2) In the first stage technical proposals on conceptual design or performance specifications should be invited, subject to technical as well as commercial clarifications and adjustments.
- (3) In the second stage final technical proposals and priced bids should be invited.

Committee system for competitive bids**26.**

- (1) A committee system for competitive bids is hereby established, consisting of the following committees for each procurement or cluster of procurements as the accounting officer may determine:
 - (a) a bid specification committee;
 - (b) a bid evaluation committee; and
 - (c) a bid adjudication committee;
- (2) The Municipal Manager appoints the members of each committee, taking into account section 117 of the Act; and

- (3) A neutral or independent observer, appointed by the Municipal Manager, must attend or oversee a committee when this is appropriate for ensuring fairness and promoting transparency.
- (4) The committee system must be consistent with –
 - (a) paragraph 27, 28 and 29 of this Policy; and
 - (b) any other applicable legislation.
- (5) The Municipal Manager may apply the committee system to formal written price quotations.

Bid specification committees

27.

- (1) A bid specification committee must compile the specifications for each procurement of goods or services by the municipality.
- (2) Specifications –
 - (a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;
 - (b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organisation, or an authority accredited or recognised by the South African National Accreditation System with which the equipment or material or workmanship should comply;
 - (c) must, where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;
 - (d) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labeling of conformity certification;
 - (e) may not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other

sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the word “equivalent”;

- (f) must indicate each specific goal for which points may be awarded in terms of the points system set out in the Preferential Procurement Regulations 2017; and 34
- (g) must be approved by the Municipal Manager / chairperson of the tender specifications committee prior to publication of the invitation for bids in terms of paragraph 22 of this Policy.
- (h) The following information must be submitted by the senior manager responsible for the vote to the Chief Financial Officer prior to the public advertisement of any bids in excess of R10 million (all applicable taxes included):
 - (i) Proof that budgetary provision exists for procurement of the goods, services and/or infrastructure projects;
 - (ii) Any ancillary budgetary implications related to the bid, for example, if the project is for the acquisition of a municipal asset, does budgetary provision exist for the operation of the asset, maintenance costs relating to the asset, administration costs and rehabilitation/renewal costs;
 - (iii) Any multi-year budgetary implications, for example, if a project will take more than one financial year, the estimated expenditure per financial year.
- (i) MFMA Circular 69 makes provision for the Department of Trade and Industry to designate sectors where in the award of bids, local production and content is of critical importance. Such bids must be advertised with a specific condition that only locally produced goods, works or services or locally manufactured goods with a stipulated minimum threshold for local production and content will be considered.

- (j) the above must be In terms of Municipal Bid document 6.2 (MBD 6.2) Declaration Certificate for Local Production and Content for Designated Sectors” for the following sectors that have been designated (*also applicable to Regulation 12 procurements*):
 - (i) Textile, clothing, leather and footwear;
 - (ii) Buses (bus body);
 - (iii) Steel power pylons;
 - (iv) Canned / processed vegetables;
 - (v) Rail rolling stock;
 - (vi) Set top boxes;
 - (vii) Furniture; and
 - (viii) Electrical and telecom cable products.
 - (ix) Transformers, shunt reactors and associated equipment
 - (x) Any other items designated by National Treasury as and when listed on the Office of the Chief Procurement Officer website.

- (k) Validity period for construction related goods/ services and infrastructure projects is 56 days or in exceptional cases 84 days and for all other goods or services the validity period is 90 days (consecutive days).

- (3) A bid specification committee must be composed of:
 - (a) at least four officials of the municipality who must serve as standing members; of which one must be from the Supply Chain Management Unit
 - (b) an official to be co-opted from the end user department preferably a manager and a knowledgeable official responsible for the function involved;
 - (c) co-opted external specialist advisor .

- (d) the quorum must be equal to 50% of the number of permanent (as opposed to co-opted) committee members, plus one other member.

- (4) No person, advisor or corporate entity involved with the bid specification committee, or director of such a corporate entity, may bid for any resulting contracts.
- (5) That for all projects with a threshold of R200 000.00 to R4m the following is waived:-
 - (a) Bank guarantee
 - (b) Bank rating
 - (c) NQF levels 5 and 7 for Labour Intensive
 - (e) Letter of Good Standing with Workmen's Compensation Fund
(The service provider must submit a letter from the Department of Labour indicating that they can be registered within seven days after receiving the award. The award shall be crafted in such way that the Municipality gives the service provider fourteen days to register with the Compensation Fund prior to the signing of the contract.
- (6) That for all projects with a threshold exceeding R4m inclusive of the following shall apply:-
 - (a) That a tenderer must sub-contract a minimum of 45% to:-
 - (i) an EME (exempted micro enterprise) or QSE (qualifying small business enterprise) which is at least 51% owned by black people.
 - (ii) an EME (exempted micro enterprise) or QSE (qualifying small business enterprise) which is at least 51% owned by black people who are youth
 - (iii) an EME (exempted micro enterprise) or QSE (qualifying small business enterprise) which is at least 51% owned by black people who are women
 - (iv) an EME (exempted micro enterprise) or QSE (qualifying small business enterprise) which is at least 51% owned by black people with disabilities

- (v) an EME (exempted micro enterprise) or QSE (qualifying small business enterprise) which is at least 51% owned by black people living in rural or under developed areas or townships
 - (vi) a co-operative which is at least 51% owned by black people
 - (vii) an EME (exempted micro enterprise) or QSE (qualifying small business enterprise) which is at least 51% owned by black people who are military veterans
 - (viii) an EME (exempted micro enterprise) or QSE (qualifying small business enterprise)
- (b) KDM must apply pre-qualifying criteria to advance certain designated groups and must advertise the tender with a specific tendering conditions that only one or more of the above (a) tenderers may respond in terms of Section 4(1) of the Preferential Procurement Regulations of 2017.
- (c) That local labour must be employed in terms of EPWP and 80% employed from within the ward and 20% within all wards of KDM.
- (d) That the Business Unit concerned must ensure that the line items that are to be subcontracted, must be specified in the bid specifications document.
- (e) The Accounting Officer has taken the decision to economically empower youth, women and people living with disabilities. This set aside approach is aimed at addressing previously disadvantaged people through economic empowerment.
- (f) The Accounting Officer will identify goods and services that will be given to the co-operatives; QSE's and EME's composed of youth, women and people living with disabilities, i.e.: -
- i. Cleaning of drains
 - ii. Construction of V-drains
 - iii. Printing and stationery
 - iv. Cleansing material
 - v. Refreshments

- vi. Building Maintenance (e.g. Community Halls) ,
- vii. Plot Clearing
- viii. Tree cutting and felling, (where necessary),
- ix. Building material e.g. concrete works (i.e. blocks, bricks, paving bricks etc) and sand,
- x. Site establishment goods /services e.g. toilet hire, site fencing, security etc,
- xi. Construction of temporary shelter during the emergency /disaster,
- xii. Potholes repairs,

(7) The Accounting Officer may call on preferred bidders to form a joint venture with SMME's for projects exceeding R10m.

(8) Skills development program

(a) that for all technical projects exceeding R4m, 1.00% of the project value must be allocated to skills development program for example; all graduates within KDM's jurisdiction. The co-ordination will be undertaken by HR and the Youth Business Unit. This should be ward and cluster based appointments.

(9)

(a) The Tender Specific Committee shall set appropriate Local Economic Development targets in the form of Contract Participation Goals, set as performance criteria within contracts, where appropriate, for the following target groups in line with KwaDukuza Council resolution of ensuring that bona-fide local cooperatives and emerging businesses are empowered. Council further reinforces that the below categories shall be considered for the set-aside and empowerment of local entrepreneurs:

- i. Priority population groups
- ii. Women

- iii. Youth
- iv. Disabled
- v. Co-operatives
- vi. Military Veterans

(b) In reference to clause above, KwaDukuza Municipality can decide to apply pre-qualifying criteria to advance designated groups. That tender must be advertised with a specific tendering condition that only one or more of the following designated groups may respond-

- i. an EME or QSE which is at least 51% owned by black people;
- ii. an EME or QSE which is at least 51% owned by black people who are youth;
- iii. an EME or QSE which is at least 51% owned by black people who are women;
- iv. an EME or QSE which is at least 51% owned by black people with disabilities;
- v. an EME or QSE which is 51% owned by black people living in rural or underdeveloped areas or townships;
- vi. a co-operative which is at least 51% owned by black people;
- vii. an EME or QSE which is at least 51% owned by black people who are military veterans;

(c) only cooperatives or EME or QSE meeting one of the above mentioned criteria who has his or her residences within KwaDukuza ward or coming from a certain CLUSTER as per council resolution of ward clustering shall be considered only for certain provision of services or goods.

(10) All local based EME or QSE or cooperatives who are participating on KwaDukuza Municipality initiated Supplier/ Enterprise Development

Program which is run for the period of more than 1 year shall be considered as part of the set-aside procurement.

- (11) A pre-qualification process shall be undertaken 90 days before the financial year end by the municipality as part of its supply chain management processes informed by the Demand Base analysis and also by the opportunities identified by the respective Business Units as part of their contribution on Radical Economic Empowerment of local people. This will be undertaken by the Demand Manager, the LED Office and the Youth Business Unit
- (12) A tender that fails to meet any pre-qualifying criteria stipulated in the tender documents is an unacceptable tender.
- (13) That the TSC checklist must be completed and signed by the chairperson and its members.

Bid evaluation committees

28.

- (1) A bid evaluation committee must –
 - (a) evaluate bids in accordance with –
 - (i) the specifications for a specific procurement; and
 - (ii) the points system set out in terms of paragraph 27(2)(f).
 - (b) evaluate each bidder's ability to execute the contract;
 - (c) check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears
 - (d) If the price offered by the tenderer scoring the highest points is not market related, council may not award the contract the that tenderer;

- (e) Council may –
 - (i) Negotiate a market related price with a tenderer scoring the highest points or cancel the tender
 - (ii) If the tenderer does not agree to a market related price, negotiate a market related price with the tenderer scoring the second highest points or cancel the tender
 - (iii) If the tenderer scoring the second highest points does not agree to a market related price, negotiate a market related price with the tenderer scoring the third highest points or cancel the tender
 - (iv) If a market related price is not agreed as envisaged in (iii) above, council must cancel the tender;
- (f) In the event where the evaluation of bids received are not concluded within the validity period, the municipality must arrange to extend period of validity to all bidders before expiry date.
- (g) Prior approval for the extension of bid validity period must be sought from Head: SCM or designated official.
- (h) In the event where the validity period of the bids received have expired with no extension of the period of tender validity being arranged with all bidders before the expiry of the validity period, then the tender is null and void and of no force and effect.
- (i) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.
- (j) A tenderer that fails to meet any pre-qualifying criteria in terms of Section 27(6) of this policy and section 4(1) & (2) of the Preferential Procurement Regulations of 2017 should be deemed as an unacceptable tender.
- (k) Contracts above the value of R10 million (all applicable taxes included) may only be awarded to the preferred bidder after the Chief Financial Officer has verified in writing that budgetary provision exists for the acquisition of the goods, infrastructure projects and/or services and that it is consistent with the Integrated Development Plan.

- (2) A bid evaluation committee must as far as possible be composed of;
 - (a) at least four officials of the municipality who must serve as standing members; one from the Supply Chain Management Unit.
 - (b) an official to be co-opted from end user department preferably a manager and a knowledgeable official responsible for the function involved ;
 - (c) co- opted external specialist advisor
 - (d) the quorum must be equal to 50% of the number of permanent (as opposed to co-opted) committee members, plus one other member.
- (3) That the TEC checklist must be completed and signed by the chairperson and its members.

Bid adjudication committees

29.

- (1) A bid adjudication committee must –
 - (a) consider the report and recommendations of the bid evaluation committee; and
 - (b) either –
 - (i) depending on its delegations, make a final award or a recommendation to the Municipal Manager to make the final award; or
 - (ii) make another recommendation to the Municipal Manager how to proceed with the relevant procurement in terms of S114 of the MFMA
 - (iii) subject to Section 28(1)(f) of this policy, sub-regulation 9 and Regulation 11 of the PPR 2017, the contract must be awarded to the tender scoring the highest points.
- (2) A bid adjudication committee must consist of at least four senior managers of the municipality which must include –

- (a) Chief Financial Officer or, if the Chief Financial Officer is not available, another manager in the budget and treasury office reporting directly to the Chief Financial Officer and designated by the Chief Financial Officer.
 - (b) Executive Directors or senior managers of which one must be a senior supply chain management official
 - (c) the quorum must be equal to 50% of the number of permanent (as opposed to co-opted) committee members, plus one other member.
- (3) The Municipal Manager must appoint the chairperson of the committee. If the chairperson is absent from a meeting, the members of the committee who are present must elect one of them to preside at the meeting.
- (4) Neither a member of a bid evaluation committee, nor an advisor or person assisting the evaluation committee, may be a member of a bid adjudication committee.
- (5)
- (a) If the bid adjudication committee decides to award a bid other than the one recommended by the bid evaluation committee, the bid adjudication committee must prior to awarding the bid –
 - (i) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears, and;
 - (ii) notify the Municipal Manager.
 - (b) The Municipal Manager may –
 - (i) after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to in paragraph (a); and
 - (ii) if the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.

- (6) The Municipal Manager may at any stage of a bidding process, refer any recommendation made by the evaluation committee or the adjudication committee back to that committee for reconsideration of the recommendation.
- (7) The Municipal Manager must comply with section 114 of the Act within 10 working days.
- (8) That the TAC checklist must be completed and signed by the chairperson and its members.

Procurement of banking services

30.

- (1) A contract for banking services –
 - (a) must be procured through competitive bids;
 - (b) must be consistent with section 7 or 85 of the Act; and
 - (c) may not be for a period of more than five years at a time.
- (2) The process for procuring a contract for banking services must commence at least nine months before the end of an existing contract.
- (3) The closure date for the submission of bids may not be less than 60 days from the date on which the advertisement is placed in a newspaper in terms of paragraph 22(1). Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

Procurement of IT related goods or services**31.**

- (1) The Municipal Manager may request the State Information Technology Agency (SITA) to assist with the acquisition of IT related goods or services through a competitive bidding process.
- (2) Both parties must enter into a written agreement to regulate the services rendered by, and the payments to be made to, SITA.
- (3) The accounting officer must notify SITA together with a motivation of the IT needs if –
 - (a) the transaction value of IT related goods or services required in any financial year will exceed R50 million (VAT included); or
 - (b) the transaction value of a contract to be procured whether for one or more years exceeds R50 million (VAT included).
- (4) If SITA comments on the submission and the municipality disagrees with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the council, the National Treasury, the relevant provincial treasury and the Auditor General.

Procurement of goods and services under contracts secured by other organs of state (refer SOP – Annexure D)**32.**

- (1) The Municipal Manager may procure goods or services under a contract secured by another organ of state, but only if –
 - (a) the contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state;
 - (b) there is no reason to believe that such contract was not validly procured;
 - (c) there are demonstrable discounts or benefits to do so; and

- (d) that other organ of state and the provider have consented to such procurement in writing.
- (2) Subparagraphs (1)(c) and (d) do not apply if –
- (a) a municipal entity procures goods or services through a contract secured by its parent municipality; or
 - (b) a municipality procures goods or services through a contract secured by a municipal entity of which it is the parent municipality.
 - (c) a municipality procures goods or services through a transversal contract secured by National Treasury

Procurement of goods necessitating special safety arrangements

33.

- (1) The acquisition and storage of goods in bulk (other than water), which necessitate special safety arrangements, including gasses and fuel, should be avoided where ever possible.
- (2) Where the storage of goods in bulk is justified, such justification must be based on sound reasons, including the total cost of ownership, cost advantages and environmental impact and must be approved by the accounting officer.

Proudly SA Campaign

34.

- (1) (a) KwaDukuza Municipality supports the Proudly SA Campaign to the extent that, all things being equal, preference is given to procuring local goods and services from:
 - Firstly – suppliers and businesses within the municipality or district;
 - Secondly – suppliers and businesses within the relevant province;
 - Thirdly – suppliers and businesses within the Republic.

- (2) KwaDukuza Municipality shall comply with MFMA circular 69 on promotion of local production and content in the designated sectors.
- (3) The following sectors have been designated;
 - (a) Textile, clothing, leather and footwear
 - (b) Bus body (only)
 - (c) Steel power pylons
 - (d) Canned/processed vegetables
 - (e) rail rolling stock
 - (f) set top boxes
 - (g) Furniture; and
 - (h) Electrical and telecom cable products
 - (i) Transformers, shunt reactors and associated equipment
 - (j) Any other items designated by National Treasury as and when listed on the Office of the Chief Procurement Officer website.

Appointment of consultants

35.

- (1) The Municipal Manager may procure consulting services provided that any Treasury guidelines in respect of consulting services are taken into account when such procurements are made.
- (2) Consultancy services must be procured through competitive bids if
 - (a) the value of the contract exceeds R200 000 (VAT included); or
 - (b) the duration period of the contract exceeds one year.
- (3) In addition to any requirements prescribed by this policy for competitive bids, bidders must furnish particulars of –
 - (a) all consultancy services provided to an organ of state in the last five years; and

- (b) any similar consultancy services provided to an organ of state in the last five years.
- (4) The Municipal Manager must ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, thing, system or process designed or devised, by a consultant in the course of the consultancy service is vested in the municipality.
- (5) All turnkey projects must be procured in terms of S12(1) of this policy.
- (6) The appointment of consultants/ turnkey appointments, shall be authorized and approved by the Accounting Officer.

Deviation from, and ratification of minor breaches of, procurement processes (refer SOP – Annexure E)

36.

- (1) The Municipal Manager may –
 - (a) dispense with the official procurement processes established by this Policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only –
 - (i) in an emergency;
 - (ii) if such goods or services are produced or available from a single provider only;
 - (iii) for the acquisition of special works of art or historical objects where specifications are difficult to compile;
 - (iv) acquisition of animals for zoos and/or nature and game reserves; or
 - (v) in any other exceptional case where it is impractical or impossible to follow the official procurement processes; and
 - (b) ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature.

- (2) The Municipal Manager must record the reasons for any deviations in terms of subparagraphs (1)(a) and (b) of this policy and report them to the next meeting of the council and include as a note to the annual financial statements.
- (3) Subparagraph (2) does not apply to the procurement of goods and services contemplated in paragraph 11(2) of this policy.

In the event of regulation 36 (1)(i) application of section 36 must be done within 7 days from date of incident

PROCEDURE TO FOLLOW

Poor planning does not constitute an emergency.

In cases where it is impractical or impossible to follow the official procurement process it must be shown where and how the market was tested, why it is impractical to go to tender, the provider chosen was undertaken in a fair manner so as not to prejudice other potential providers, etc. where it would be against the Municipality's best interest to follow the proper procurement process

All reports of this nature are to be signed by the Chief Financial Officer who will check:

- Is the motivation valid?
- Is there sufficient reason for not going out to tender?
- Is there adequate finance?
- Is the process fair, equitable, as transparent as can be, cost effective?
- Can the Municipality adequately account for making such a decision

Accounting Officer to Approve prior to implementation with the exception of an emergency

Supply Chain Unit to issue official order number.

Unsolicited bids (refer SOP – Annexure F)

37.

- (1) In accordance with section 113 of the Act there is no obligation to consider unsolicited bids received outside a normal bidding process.
- (2) The Municipal Manager may decide in terms of section 113(2) of the Act to consider an unsolicited bid, only if –

- (a) the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;
 - (b) the product or service will be exceptionally beneficial to, or have exceptional cost advantages;
 - (c) the person who made the bid is the sole provider of the product or service; and
 - (d) the reasons for not going through the normal bidding processes are found to be sound by the accounting officer.
- (3) If the Municipal Manager decides to consider an unsolicited bid that complies with subparagraph (2) of this policy, the decision must be made public in accordance with section 21A of the Municipal Systems Act, together with –
- (a) reasons as to why the bid should not be open to other competitors;
 - (b) an explanation of the potential benefits if the unsolicited bid were accepted; and
 - (c) an invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.
- (4) The Municipal Manager must submit all written comments received pursuant to subparagraph (3), including any responses from the unsolicited bidder, to the National Treasury and the relevant provincial treasury for comment.
- (5) The adjudication committee must consider the unsolicited bid and may award the bid or make a recommendation to the accounting officer, depending on its delegations.
- (6) A meeting of the adjudication committee to consider an unsolicited bid must be open to the public.

- (7) When considering the matter, the adjudication committee must take into account –
 - (a) any comments submitted by the public; and
 - (b) any written comments and recommendations of the National Treasury or the relevant provincial treasury.
- (8) If any recommendations of the National Treasury or provincial treasury are rejected or not followed, the Municipal Manager must submit to the Auditor General, the relevant provincial treasury and the National Treasury the reasons for rejecting or not following those recommendations.
- (9) Such submission must be made within seven days after the decision on the award of the unsolicited bid is taken, but no contract committing KwaDukuza Municipality to the bid may be entered into or signed within 30 days of the submission.

Combating of abuse of supply chain management system

38.

- (1) The Municipal Manager must–
 - (a) take all reasonable steps to prevent abuse of the supply chain management system;
 - (b) investigate any allegations against an official or other role player of fraud, corruption, favouritism, unfair or irregular practices or failure to comply with this Policy, and when justified –
 - (i) take appropriate steps against such official or other role player; or
 - (ii) report any alleged criminal conduct to the South African Police Service;
 - (c) check the National Treasury's database prior to awarding any contract to ensure that no recommended bidder, or any of its directors, is listed as a person prohibited from doing business with the public sector;

- (d) reject any bid from a bidder—
 - (i) if any municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to the municipality, or to any other municipality or municipal entity, are in arrears for more than three months; or
 - (ii) who during the last five years has failed to perform satisfactorily on a previous contract with the municipality or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;
- (e) reject a recommendation for the award of a contract if the recommended bidder, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract;
- (f) cancel a contract awarded to a person if —
 - (i) the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or
 - (ii) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and
- (g) reject the bid of any bidder if that bidder or any of its directors —
 - (i) has abused the supply chain management system of the municipality or has committed any improper conduct in relation to such system;
 - (ii) has been convicted for fraud or corruption during the past five years;
 - (iii) has willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or

- (iv) has been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).
- (h) Where any of the conditions of the contract have not been fulfilled, an organ of state must take action against a contractor; and in addition to any other contractual or other remedy that it may have against the contractor, an organ of state may:
- (i) disqualify the contractor from the tendering process;
 - (ii) recover all costs, losses or damages it has incurred or suffered as a result of that contractor's performance;
 - (iii) cancel the contract and claim any damages which it has suffered as a result of having to make less favorable arrangements due to such cancellation;
 - (iv) restrict the contractor, its shareholders and directors from obtaining business from any organ of state for a period not exceeding 10 years, after the audi alteram partem (hear the other side) rule has been applied; and
 - (v) forward the matter for criminal prosecution
 - (vi) That the municipality must comply with MFMA Circular 43 to invoke above.
- (i) All action taken in terms of (h) above may be shared with all municipalities within the ILembe Region.
- (2) The Municipal Manager must inform the National Treasury and relevant provincial treasury in writing of any actions taken in terms of subparagraphs (1)(b)(ii), (e) or (f) of this policy.

Part 3: Logistics, Disposal, Risk and Performance Management**Logistics management****39.**

The Municipal Manager must establish and implement an effective system of logistics management, which must include -

- (a) the monitoring of spending patterns on types or classes of goods and services incorporating, where practical, the coding of items to ensure that each item has a unique number;
- (b) the setting of inventory levels that includes minimum and maximum levels and lead times wherever goods are placed in stock;
- (c) the placing of manual or electronic orders for all acquisitions other than those from petty cash;
- (d) before payment is approved, certification by the responsible officer that the goods and services are received or rendered on time and is in accordance with the order, the general conditions of contract and specifications where applicable and that the price charged is as quoted in terms of a contract;
- (e) appropriate standards of internal control and warehouse management to ensure that goods placed in stores are secure and only used for the purpose for which they were purchased;
- (f) regular checking to ensure that all assets including official vehicles are properly managed, appropriately maintained and only used for official purposes; and
- (g) monitoring and review of the supply vendor performance to ensure compliance with specifications and contract conditions for particular goods or services.

Disposal management (refer SOP – Annexure G)

40.

- (1) The criteria for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the Act, are as follows:
 - (i) An obsolescence plan must be determined for each asset to ensure that when the asset can no longer be maintained or used for its original purpose, that there is a plan to replace it.
 - (ii) A renewal plan must be determined for assets that have reached the end of its useful life.
 - (iii) Asset disposal decisions must be made within an integrated, service and financial planning framework.
- (2) Assets may be disposed of by –
 - (i) transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;
 - (ii) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
 - (iii) selling the asset; or
 - (iv) destroying the asset.
- (3) KwaDukuza Municipality must establish a disposal strategy to determine the best mechanism of disposal for each asset and the Municipal Manager must ensure that –
 - (a) immovable property is sold only at market related prices except when the public interest or the plight of the poor demands otherwise;

- (b) movable assets are sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous;
- (c) firearms are not sold or donated to any person or institution within or outside the Republic unless approved by the National Conventional Arms Control Committee;
- (d) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise;
- (e) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed;
- (f) where assets are traded in for other assets, the highest possible trade-in price is negotiated; and
- (g) in the case of the free disposal of computer equipment, the provincial department of education is first approached to indicate within 30 days whether any of the local schools are interested in the equipment.

Risk management

41.

Risk management must include –

- (a) the identification of risks on a case-by-case basis;
- (b) the allocation of risks to the party best suited to manage such risks;
- (c) acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it;
- (d) the management of risks in a pro-active manner and the provision of adequate cover for residual risks; and
- (e) the assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.
- (f) in terms of (b) above, the committee may not appoint a contractor to carry out works which exceeds the value of the maximum threshold enabled for their CIDB grading to mitigate its risk.

- (g) in terms of (b) above, the committee may not appoint a contractor for more than one contract for non-technical tenders to mitigate its risk.

Performance management

42.

The Accounting Officer must establish and implement an internal monitoring system in order to determine, on the basis of a retrospective analysis, whether the authorised supply chain management processes were followed and whether the objectives of this Policy were achieved.

Part 4: Other matters

Prohibition on awards to persons whose tax matters are not in order

43.

- (1) No award above R30 000 may be made in terms of this Policy to a person whose tax matters have not been declared by the South African Revenue Service to be in order.
- (2) Before making an award to a person the Municipal Manager must first check with SARS whether that person's tax matters are in order.
- (3) If SARS does not respond within 7 days such person's tax matters may for purposes of subparagraph (1) be presumed to be in order.
- (4) In terms of MFMA Circular 90, the following shall apply:-
 - (i) The CSD or tax compliance status PIN are the approved methods to be used to prove tax compliance.

- (ii) The Accounting Officer may therefore, accept printed or copies of Tax Clearance Certificates submitted by bidders and verify them on e-Filing. The verification result should be filed and attached for audit purposes for that specific tender or order.
- (iii) Where a supplier does not submit a tax compliance status PIN but provides a CSD number, the accounting officer should utilise the CSD number via its website www.csd.gov.za to access the supplier records and verify tax compliance status. A printed screen view at the time of verification should then be attached to the supplier's records for audit purposes.
- (iv) Where the recommended bidder is not tax compliant, the bidder should be notified of their non-compliant status and the bidder must be requested to submit to the municipality, within 7 working days, written proof from SARS of their tax compliance status or proof from SARS that they have made an arrangement to meet their outstanding tax obligations. This function must be performed by the SCM Practitioners for bids within the threshold of R30 000 and R200 000 and by the Demand Manager for all tender awards.
- (v) The proof of tax compliance status submitted by the bidder to the municipality must be verified via the CSD or e- Filing. This function must be performed by the SCM Practitioners for bids within the threshold of R30 000 and R200 000 and by the Demand Manager for all tender awards.
- (vi) The accounting officer should reject a bid submitted by the bidder if such a bidder fails to provide proof of tax compliance status within the timeframe stated above.

Prohibition on awards to persons in the service of the state

44.

Irrespective of the procurement process followed, no award may be made to a person in terms of this Policy –

- (a) who is in the service of the state;
- (b) if that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state; or
- (c) a person who is an advisor or consultant contracted with KwaDukuza Municipality wherein the awarding of contract would result in a conflict of interest and put in question the integrity of the municipal systems of sound governance..

Awards to close family members of persons in the service of the state

45.

The Municipal Manager must ensure that the notes to the annual financial statements disclose particulars of any award of more than R2000 to a person who is a spouse, child or parent of a person in the service of the state, or has been in the service of the state in the previous twelve months, including –

- (a) The name of that person;
- (b) The capacity in which that person is in the service of the state; and
- (c) The amount of the award.

Ethical standards

46.

- (1) A code of ethical standards is hereby established, in accordance with subparagraph (2), for officials and other role players in the supply chain management system in order to promote –

- (a) mutual trust and respect; and
 - (b) an environment where business can be conducted with integrity and in a fair and reasonable manner.
- (2) An official or other role player involved in the implementation of the supply chain management policy –
- (a) must treat all providers and potential providers equitably;
 - (b) may not use his or her position for private gain or to improperly benefit another person;
 - (c) may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350;
 - (d) notwithstanding subparagraph (2)(c), must declare to the accounting officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;
 - (e) must declare to the accounting officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, or in any award of a contract by, the municipality
 - (f) must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;
 - (g) must be scrupulous in his or her use of property belonging to the municipality
 - (h) must assist the accounting officer in combating fraud, corruption, favoritism and unfair and irregular practices in the supply chain management system; and

- (i) must report to the accounting officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including –
 - (i) any alleged fraud, corruption, favoritism or unfair conduct;
 - (ii) any alleged contravention of paragraph 47(1) of this policy; or
 - (iii) any alleged breach of this code of ethical standards.

- (3) Declarations in terms of subparagraphs (2)(d) and (e) -
 - (a) must be recorded in a register which the accounting officer must keep for this purpose;
 - (b) by the accounting officer must be made to the mayor of the municipality who must ensure that such declarations are recorded in the register.

- (4) The National Treasury's code of conduct will be taken into account by supply chain management practitioners and other role players involved in supply chain management.

- (5) A breach of the code of ethics will be dealt with as follows -
 - (a) in the case of an employee, in terms of the disciplinary procedures of the KwaDukuza Municipality envisaged in section 67(1)(h) of the Municipal Systems Act;
 - (b) in the case a role player who is not an employee, in recognition of the severity of the breach by:
 - (i) listing in the register of defaulters by the municipality and/or
 - (ii) listing in the provincial and national treasury of defaulters and/or
 - (iii) removal from KwaDukuza Municipality's database.

- (c) In all cases, financial misconduct will be dealt with in terms of chapter 15 of the Act and Regulations on Financial Misconduct and Criminal Proceedings issued on 30 May 2014.

- (6) A breach of the code of conduct adopted by the municipality must be dealt with in accordance with schedule 2 of the Systems Act.

Inducements, rewards, gifts and favours to municipalities, officials and other role players

47.

- (1) No person who is a provider or prospective provider of goods or services, or a recipient or prospective recipient of goods disposed or to be disposed of may either directly or through a representative or intermediary promise, offer or grant –
- (a) any inducement or reward to KwaDukuza Municipality for or in connection with the award of a contract; or
 - (b) any reward, gift, favour or hospitality to –
 - (i) any official; or
 - (ii) any other role player involved in the implementation of this Policy.
- (2) The Municipal Manager must promptly report any alleged contravention of subparagraph (1) to the National Treasury for considering whether the offending person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the National Treasury's database of persons prohibited from doing business with the public sector.
- (3) Subparagraph (1) does not apply to gifts less than R350 in value.

Sponsorships

48.

The Municipal Manager must promptly disclose to the National Treasury and the relevant provincial treasury any sponsorship promised, offered or granted, whether directly or through a representative or intermediary, by any person who is –

- (a) a provider or prospective provider of goods or services; or
- (b) a recipient or prospective recipient of goods disposed or to be disposed.

Objections and complaints

49.

Persons aggrieved by decisions or actions taken in the implementation of this supply chain management system, may lodge within 14 days of the decision or action –

- (a) if the objection or complaint is against the procurement process, submit a written objection or complaint against the decision or action to the accounting officer of the municipality who shall, in turn, within 72 hours refer the written objection or complaint to the independent and impartial person referred to in paragraph 50 for resolution or

Resolution of objections and complaints against procurement process

50.

- (1) The Accounting Officer must appoint an independent and impartial committee, not directly involved in the supply chain management processes to assist in the resolution of objections and complaints between the municipality and any other person regarding -
 - (a) the implementation of the procurement process in terms of the supply chain management system; or

- (b) any matter arising from the implementation of the procurement process in terms of the supply chain management system.
- (2) The Accounting Officer, or another official designated by the Accounting Officer, is responsible for assisting the appointed committee members effectively.
- (3) The committee appointed must –
 - (a) strive to resolve promptly all objections and complaints received; and
 - (b) submit monthly reports to the accounting officer on all such objections and complaints received, attended to or resolved.
- (4) If the independent (internal) and impartial committee referred to in paragraph 50.(1), cannot resolve the matter internally, then the Accounting Officer must appoint an external appeals committee making up of members within the ILembe District Municipalities.
- (5) An objection or complaint may be referred to the KwaZulu-Natal Provincial Treasury if:
 - (a) the objection or complaint is not resolved within 60 days; or
 - (b) no response is forthcoming within 60 days.
- (6) If the Provincial Treasury does not or cannot resolve the matter, the objection or complaint may be referred to the National Treasury for resolution.

Contracts providing for compensation based on turnover

51.

If a service provider acts on behalf of KwaDukuza Municipality to provide any service or act as a collector of fees, service charges or taxes and the compensation payable to the service provider is fixed as an agreed percentage of turnover for the service or the amount collected, the contract between the service provider and the KwaDukuza Municipality must stipulate –

- (a) a cap on the compensation payable to the service provider; and
- (b) that such compensation must be performance based.

CALCULATION OF THE PREFERENT POINT SYSTEM

52. The 80/20 or 90/10 Preference Point System

Preference point systems

(a) The 80/20 preference point system is applicable to bids* with a Rand value equal to, or above R30 000 and up to a Rand value of R50 million (all applicable taxes included). Institutions may apply the 80/20 preference point system to price quotations with a value less than R30 000 if and when appropriate.

(b) The 90/10 preference point system is applicable to bids with a Rand value above R50 million (all applicable taxes included).

(c) Calculation of points for price

The PPPFA prescribes that the lowest acceptable bid will score 80 or 90 points for price. Bidders that quoted higher prices will score lower points for price on a pro-rata basis.

The formulae to be utilised in calculating points scored for price are as follows:

80/20 Preference point system [(for acquisition of services, works or goods up to a Rand value of R50 000 000.00) (all applicable taxes included)]

$$P_s = 80(1 - \frac{P_t - P_{min}}{P_{min}})$$

Where

P_s = Points scored for comparative price of bid or offer under consideration

P_t = Comparative price of bid or offer under consideration

P_{min} = Comparative price of lowest acceptable bid or offer.

Preference point system [(for acquisition of services, works or goods with a Rand value above R50 million) (all applicable taxes included)]

$$P_s = 90(1 - \frac{P_t - P_{min}}{P_{min}})$$

Where

P_s = Points scored for comparative price of bid or offer under consideration

P_t = Comparative price of bid or offer under consideration

P_{min} = Comparative price of lowest acceptable bid or offer.

Points scored must be rounded off to the nearest 2 decimal places.

(d) Calculation of points for B-BBEE status level of contributor

Points must be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

B-BBEE Status Level of Contributor	Number of points (90/10 system)	Number of points (80/20 system)
1	10	20
2	9	18

3	6	14
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

A bid must not be disqualified from the bidding process if the bidder does not submit a certificate substantiating the B-BBEE status level of contribution or is a non-compliant contributor. Such a bidder will score zero (0) out of a maximum of 10 or 20 points respectively for B-BBEE

(e) Calculation of total points scored for price and B-BBEE status level of contribution

The points scored for price must be added to the points scored for B-BBEE status level of contribution to obtain the bidder's total points scored out of 100.

(f) Evaluation of bids that scored equal points

- (i) In the event that two or more bids have scored equal total points, the successful bid must be the one that scored the highest points for B-BBEE.
- (ii) If two or more bids have equal points, including equal preference points for BBEE, the successful bid must be the one scoring the highest score for functionality, if functionality is part of the evaluation process.
- (iii) In the event that two or more bids are equal in all respects, the award must be decided by the drawing of lots.

53. Cancellation and re-invitation of bids

(1)

- (a) In the application of the 80/20 preference point system, if **all** bids received exceed R50 000 000, the bid must be cancelled. If one or more of the acceptable bid(s) received are within the R50 000 000 threshold, all bids received must be evaluated on the 80/20 preference point system.
- (b) In the application of the 90/10 preference point system, if **all** bids received are equal to or below R50 000 000, the bid must be cancelled. If one or more of the acceptable bid(s) received are above the R50 000 000 threshold, all bids received must be evaluated on the 90/10 preference point system.
- (c) If a bid was cancelled in terms of paragraph (a) or (b), the correct preference point system must be stipulated in the bid documents of the re-invited bid.

(2) A municipality may, prior to the award of a bid, cancel the bid if:

- (a) Due to changed circumstances, there is no longer a need for the services, works or goods requested. [AOs / AAs must ensure that only goods, services or works that are required to fulfill the needs of the institution are procured]; or
- (b) Funds are no longer available to cover the total envisaged expenditure. [AO has to ensure that the budgetary provisions exist]; or
- (c) No acceptable bids are received. [If all bids received are rejected, the institution must review the reasons justifying the rejection and consider making revisions to the specific conditions of contract, design and specifications, scope of the contract, or a combination of these, before inviting new bids].

- (d) There is a material irregularity in the tender process
- (3) The decision to cancel a tender in terms of subsections must be published in the media in which the original tender was advertised.
- (4) An organ of state may only with the prior approval of the relevant Treasury cancel a tender invitation for the second time.
- (5) In terms of CIDB clause F.1.5.2 The employer may not subsequent to the cancellation or abandonment of a tender process or the rejection of all responsive tender offers re-issue a tender covering substantially the same scope of work within a period of six months unless only one tender was received and such tender was returned unopened to the tenderer.

54. Award of contracts

- (a) A contract must be awarded to the bidder who scored the highest total number of points in terms of the preference point systems.
- (b) In exceptional circumstances a contract may, on reasonable and justifiable grounds, be awarded to a bidder that did not score the highest number of points. The reasons for such a decision must be approved and recorded for audit purposes and must be defensible in a court of law.
- (c) Contracts may be expanded or varied by not more than 20% for construction related goods, services and infrastructure projects and 15% for all other goods or services of the original value of contract. Anything above the above mentioned thresholds must be reported to council. Any expansion or variation in excess of these thresholds must be dealt with in terms of the provisions of Section 116(3) of the MFMA which would be regarded as an amendment to the contract.

- (d) MFMA Circular 49 issued in 2009 and Section 65 (2) (e) of the Municipal Finance Management Act of 2003 states "that all monies owing by the municipality be paid within 30 days of receiving the relevant invoice or statement, unless prescribed otherwise for certain categories of expenditure.

55. Green procurement

1. Eco procurement, or green procurement, is procurement that takes into account environmental criteria when goods and services are purchased, so that the related environmental impact is minimised.

2. Eco procurement aims to:

- a) Encourage a decrease in energy and resource use,
- b) Promote environmental best practice in terms of waste minimisation and management, water and energy efficiency and conservation, pollution reduction and socio-economic development, and
- c) Encourage suppliers to change their behaviour and to provide for environmental issues in the design, manufacture and disposal of their products.

56. Cost Containment

1. The municipality shall annually develop cost containment measures taking into accounts its operation and cost drivers.

57. Sub –Contracting (refer SOP – Annexure H)

1. That the Preferential Procurement Regulations of 2017, Regulation 9 allows for subcontracting as a condition of tender. Council has resolved that for all projects exceeding R4m, all taxes inclusive, must be applied to advance designated groups.

2. If an organ of state applies subcontracting as contemplated in sub section (1) above, the municipality must advertise the tender with specific tendering condition that the successful tenderer must subcontract a minimum of 45% of the value of contract to-

- a. An EME or QSE
- b. an EME (exempted micro enterprise) or QSE (qualifying small business enterprise) which is at least 51% owned by black people.
- c. an EME (exempted micro enterprise) or QSE (qualifying small business enterprise) which is at least 51% owned by black people who are youth
- d. an EME (exempted micro enterprise) or QSE (qualifying small business enterprise) which is at least 51% owned by black people who are women
- e. an EME (exempted micro enterprise) or QSE (qualifying small business enterprise) which is at least 51% owned by black with disabilities
- f. an EME (exempted micro enterprise) or QSE (qualifying small business enterprise) which is at least 51% owned by black people living in rural or under developed areas or townships
- g. a co-operative which is at least 51% owned by black people an EME (exempted micro enterprise) or QSE (qualifying small business enterprise) which is at least 51% owned by black people who are military veterans
- h. more than one of the categories refereed in paragraphs (a) to (h).

3. The municipality must make available the list of all suppliers registered on a database approved by the National Treasury to provide the required goods or services in respect of the applicable designated groups mentioned in sub section (2) from which the tenderer must select a supplier.

4. A bidder who does not comply with the schedule for sub-contracting shall be deemed as a non-responsive tender.

58. Remedies

1. Upon detecting that a tenderer submitted false information regarding its B-BBEE status level. Local production and content, or any other matter required in terms of the PPR of 2017 which will affect or has affected the evaluation of a tender, or where a tenderer has failed to declare any subcontracting arrangements, the organ of state must-

- a. Inform the tenderer accordingly
- b. Give the tenderer an opportunity to make representation within 14 days as to why-
 - i. the tender submitted should not be disqualified, or if already awarded the contract, give reasons as to why the contract should not be terminated in whole or in part;
 - ii. if the tenderer subcontracted a portion of the tender without disclosing it, the tenderer should not be penalized up to 10% of the value of the contract; and
 - iii. the tenderer should not be restricted by the National Treasury from conducting any business for a period of 10 years with any organ of state

- c. If it concludes, after considering the representations referred to in the above sub section (1)(b), that-
 - i. Such false information was submitted by the tenderer-
 - aa) Disqualify the tenderer or terminate the contract in whole or in part; and
 - bb) If applicable, claim damages from the tenderer; or
 - ii. The successful tenderer subcontracted a portion of the tender to another person without disclosing; penalize the tenderer up to 10% of the value of the contract
- 2.
- a. An organ of state must-
 - i. Inform National Treasury in writing of any actions taken in terms of sub-section (1).
 - ii. Provide written submissions as to whether the tenderer should be restricted from conducting business with any organ of state; and
 - iii. Submit written representations from the tenderer as to why that tenderer should not be restricted from conducting business with any organ of state.
 - b. The National Treasury may then request an organ of state to submit further information pertaining to sub section(1) within a specified period.
3. The National Treasury must-
- a. After considering the representations of the tenderer and any other relevant information, decide whether to restrict the tenderer from doing business with any organ of state for a period not exceeding 10 years
 - b. Maintain and publish on its official website a list of restricted suppliers.

Commencement

This Policy takes effect on [01/07/ 2019]

ANNEXURE A**STANDARD OPERATING PROCEDURE FOR GOODS RECEIVED**

STEP 1: Orders issued to service provider

STEP 2: Goods received by SCM Official who verifies invoice against goods delivered and is signed off. (dependent on nature of goods delivered e.g. premix, quarry, hire of plant and equipment etc. where delivery note/ timesheet must be forwarded to SCM Officials)

STEP 3: Good received is immediately recorded in goods received book.

STEP 4: The departments are informed of the delivery and is requested to pick up goods from the SCM Unit and the goods received book is thereafter signed off or in some instances the SCM Senior Clerk delivers.

STEP 5: The invoice / delivery note is attached to the relevant order.

STEP 6: Once the order has been invoiced the Procurement Clerk then creates the GRV after verifying that the invoice matches the order. (After various checks have been conducted)

STEP 7: The GRV's are then recorded in a register and forwarded to the various directorates for authorisation.

STEP 8: The GRV is then returned to the SCM Unit (3 day turnaround time and date stamped) which is then verified against the register.

STEP 9: GRV is then forwarded for final payment (Expenditure Section)

NB: GRV's that have not been returned timeously and/or missing, an item will be submitted monthly to MANCO

STANDARD OPERATING PROCEDURE FOR SERVICES RENDERED

STEP 1: Orders issued to service provider

STEP 2: Services rendered / project completed.

STEP 3: Invoice is thereafter provided by the service provider to the user directorate.

STEP 4: The user departments then verifies the completion of the project and signs off the invoice.

STEP 5: The invoice is then submitted to the SCM Unit by the user department and the SCM Official thereafter invoices the order.

STEP 6: Once the order has been invoiced the Procurement Clerk then creates the GRV after verifying that the invoice matches the order. (after various checks have been conducted)

STEP 7: The GRV's are then recorded in a register and forwarded to the various directorates for authorisation.

STEP 8: The GRV is then returned to the SCM Unit (3 day turnaround time and date stamped) which is then verified against the register.

STEP 9: GRV is then forwarded for final payment (Expenditure Section)

NB: GRV's that have not been returned timeously and/or missing, an item will be submitted monthly to MANCO

ANNEXURE B

STANDARD OPERATING PROCEDURE FOR THE OPENING OF TENDER DOCUMENTS

1. Once advert is placed in the local newspaper; councils website and notice boards; e-tender portal; CIDB website (if applicable); the electronic advert is forwarded to the following officials:-
 - Office of the Municipal Manager
 - Luyanda Tshonapi
 - Business Unit concerned
 - Consultants (if applicable)
2. The above officials must make themselves available at the time and date and venue for the opening of the tender bid documents as specified in the advert.
3. At the opening, the officials will call out the following:-
 - The name of the bidder
 - The price received
- 3.1 That the following mandatory documents must be stamped and signed by the KDM officials together with the bid document and the price:
 - MUNICIPAL UTILITY BILLS
 - CIDB (if applicable)
 - LETTER OF GOOD STANDING (if applicable)
 - BANK RATING (if applicable)
 - NQF LEVELS 5 & 7 (if applicable)
4. The Business Unit will sign for those documents.
5. Please note that no bid documents must leave the municipal buildings by internal officials and external service providers who are not officials of the municipality.
6. That the Demand Manager will make a copy of the tenders received and place all received bids on councils website.

ANNEXURE C**STANDARD OPERATING PROCEDURE - 2 ENVELOPE SYSTEM
TENDER**

1. The service provider must ensure that 2 separate envelopes are used

2. Envelope must be clearly marked as follows:-

ENVELOPE 1 – TECHNICAL PROPOSAL – TENDER NUMBER

ENVELOPE 2 – FINANCIAL PROPOSAL – TENDER NUMBER

NB: At the back of envelope 2, the service provider MUST clearly indicate the company name and postal address

3. Both envelopes 1 and 2 must be placed in a separate third envelope, sealed, clearly indicating the description of the tender the service provider wishes to participate in

4. The service provider shall place the envelope into the tender box as instructed in the tender advertisement

5. On the day of the public opening only the technical proposal (envelope 1) shall be opened and the name of each bidder publically announced and recorded

6. The second envelop indicating the price proposal MUST NOT be opened until the evaluation of the first envelope has been completed.

7. The user department will then evaluate the quality of the technical proposals and a report duly submitted to the TEC who will then recommend to TAC

NB: Evaluation to be done in accordance with criteria set bearing in mind the minimum threshold to be scored by each bidder to qualify for the opening of envelope 2.

8. ONLY those bidders who have scored the minimum number of points for the technical proposals will be invited for the opening of the second envelope (financial proposal)
9. Financial proposals shall be opened, read out and recorded publically.
10. The user department shall submit a report to the TEC who will consider price and preferential points and recommend to TAC for final award
11. All unopened financial proposals for those bidders who failed to qualify for stage 2 must be returned unopened to the bidders by Demand Management

IMPORTANT NOTES

- *Should envelope 1 contain pricing, the tender becomes non-responsive*
- *Should the envelope not be clearly marked, the bid is rendered non-responsive*
- *Should the officials at the tender opening open both envelopes simultaneously, it renders the entire tender process as flawed. The tender must be duly cancelled and be started de novo (afresh).*

ANNEXURE D

STANDARD OPERATING PROCEDURE - APPOINTMENT OF SERVICE

PROVIDERS IN TERMS OF SECTION 32 OF THE SCMP

In terms of Section 110(2)(c) of the MFMA which is further amplified in Section 32 of the Municipal Supply Chain Management Regulations, a Municipality may opt to procure goods and services under a contract secured by another organ of state, provided that the relevant supplier has agreed to such procurements and the following:-

1. The contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state;
2. The municipality has no reason to believe that such contract was not validly procured;
3. There are demonstrable discounts or benefits for the municipality to do so; and
4. That the other organ of state and the provider have consented to such procurement in writing

In light of the above the following SOP shall apply:-

Once the Business Unit (BU) identifies a need for a contract secured by another organ of state, the BU is to first consider the benefits and costs of savings that could be derived from such a contract. Once this has been identified, the following must be provided to the Bid Committees (TEC and TAC) in order to consider procuring in terms of Section 32 of the Municipal Supply Chain Management Regulations:-

1. A motivation report from the BU indicating the need for such procurement and the benefits as well as cost of savings derived from procuring such a contract.
2. A letter of intent signed by the Municipal Manager to the organ of state under which the contract has been secured requesting permission to utilize the contract.

3. A signed letter from the Municipal Manager of the organ of state agreeing to tap into the tender with the following accompanying documents;
 - 3.1 Tender advert
 - 3.2 Copy of the bid document of the awarded service provider
 - 3.3 All Bid Committee minutes (bid specifications, bid evaluation and bid adjudication)
 - 3.4 Signed appointment letter of the service provider by the Municipal Manager of the other organ of state.
 - 3.5 Contract / SLA of the appointed bidder with the organ of state
 - 3.6 Letter of acceptance from the Accounting Officer of the organ of state and confirmation that no objections were outstanding at the time of appointment
4. The following documents must be provided by the service provider;
 - 4.1 Signed letter agreeing to contract with the municipality as per the approved specifications at the same rates as agreed by the other organ of state
 - 4.2 Valid SARS Pin
 - 4.3 Three years Annual Financial Statements for contracts more than R 10 million
 - 4.4 Confirmation that service provide is not in the service of the state
 - 4.5 Confirmation that municipal rates and other charges are not in arrears
 - 4.6 MBD 4 Declaration of Interest
 - 4.7 MB 6.2 Declaration for Local Content (if applicable)
5. Once the above information has been secured by the BU, an item must be prepared to the TEC for recommendation and TAC for award. This item must ensure compliance with all requirements set out in points 1 – 4 above. A copy of a budget clearance certificate must be provided to the committees proving that funds are available for such a service in compliance with Section 15 of the MFMA.
6. Once the TAC has approved the item, any resolutions that are conditional / suspensive must be addressed by the Demand Manager.

7. An appointment letter will then be drafted by the Demand Manager for the MM's signature.
8. Once signed by MM, this letter will be forwarded to the service provider.
9. The appointment letter together with the item and accompanying documents as determined in points 3 and 4 above, TEC and TAC minutes will be forwarded to the Legal Department for the drawing up of the contract to be signed.

NB:

- *It must be noted that the contract can only be secured as per the approved specifications from that organ of state. No deviations from the specifications may be allowed. For example, should the organ of state approve the procurement of a 30 page stapler, a 60 page stapler cannot be procured at a higher price by the municipality.*
- *A contract may only be procured in terms of Section 32 of the SCM Regulations if the intended contract is still valid. For example a tender which has a 3 year duration and 2 years has already lapsed, the municipality may only utilize that tender for the remainder of the contract duration.*

ANNEUXRE E**SECTION 36 PROCURMENTS**

The SCM Regulations allows the Accounting Officer to dispense with the official procurement process in terms of the Regulation 36. There are 5 categories in which the Accounting Officer is allowed to deviate. The Section 36 allows the Accounting Officer to deviate from the following:-

- a) Regulation 12(1) – Range of procurement processes
- b) Regulation 18(a) - Advertising of closed quotes for 7 days
- c) Regulation 22(1) - Invitation of competitive bids

Prior to the deviation being approved by the Accounting Officer, the following must be complied with;

1. Registration on the CSD
 2. SARS tax / pin
 3. MBD 4 – Declaration of interest
 4. MBD 8 – Declaration of bidders past SCM practices
 5. MBD 6.2 – Declaration for local content (if applicable)
 6. Contractors most recent utility bill (not older than 3 months)
 7. Bank guarantees (if applicable)
 8. CIDB Grading (if applicable)
 9. Certification of registration (if required registration with a professional body if applicable)
 10. MBD 5 – Declaration for procurement above R10m and all applicable taxes
- It must be noted that there must be a justifiable motivation by the Business Unit to the Accounting Officer for a Section 36 approval.
 - The utilization of a Section 36 must as far as possible be approved prior to the procurement of goods or services.

- It is the responsibility of the requester or the Executive Director to take the Section 36 book for approval so that the Municipal Manager or his delegate has a clear understanding for the reason for the deviation. Lately there has been service providers and junior staff running around with the Section 36 book who are unable to provide clear and justifiable reasoning for the need for the deviation with incomplete documentation.
- That contracts must be drawn for any deviations exceeding R200 000.00 for all projects that require progress payments in line with the requirements of Provincial Treasury.
- A Section 36 cannot be used for the acquiring of goods or services that are repetitive in nature, for example, furniture, technical projects etc.
- No Section 36 will be approved unless the Business Unit can prove to the Municipal Manager that the SCM processes in terms of Regulation 12 has been followed.

ANNEXURE F**STANDARD OPERATING PROCEDURE FOR UNSOLICITED BIDS**

1. A municipality is in terms of section 113 of the Act is not obliged to consider unsolicited bids received outside a normal bidding process. If a municipality or municipal entity decides in terms of section 113(2) of the Act to consider an unsolicited bid, it may do so only if:
 - The product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;
 - The product or service will be exceptionally beneficial to, or have exceptional cost advantages for, the municipality or entity;
 - The person who made the bid is the sole supplier of the product or service; and
 - The reasons for not going through the normal bidding processes are found to be sound by the Accounting Officer.
2. If a municipality decides to consider an unsolicited bid that complies with Municipal SCM Regulation 37(2), the municipality must make its decision public in accordance with section 21A of the Municipal Systems Act, together with:
 - Its reasons as to why the bid should not be open to other competitors;
 - An explanation of the potential benefits for the municipality were it to accept the unsolicited bid; and
 - An invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.
3. Once the municipality has received written comments pursuant to Municipal SCM Regulation 37(3), it must submit such comments, including any responses from the unsolicited bidder, to the National Treasury and the relevant Provincial Treasury for comment.

The bid adjudication committee must consider the unsolicited bid and may award the bid or make a recommendation to the Accounting Officer, depending on its delegations. A meeting of the bid adjudication committee to consider an unsolicited bid must be open to the public.

4. When considering the matter, the bid adjudication committee must take into account:
 - any comments submitted by the public; and
 - any written comments and recommendations of the National Treasury or the relevant Provincial Treasury.
5. If any recommendations of the National Treasury or Provincial Treasury are rejected or not followed, the accounting officer must submit to the Auditor General, the relevant provincial treasury and the National Treasury the reasons for rejecting or not following those recommendations.

Such submission must be made within seven days after the decision on the award of the unsolicited bid is taken, but no contract committing the municipality to the bid may be entered into or signed within 30 days of the submission.

- Note: should be taken that inadequate attention given to unsolicited bidding may cause undue problems in the entire procurement process.

ANNEXURE G**STANDARD OPERATING PROCEDURE FOR DISPOSALS**

1. Executive Directors shall report in writing to the Head of SCM on all assets which they wish to dispose at least on quarterly basis.
2. The SCM shall consolidate the requests received from the various departments, and shall promptly report the consolidated information to the Management Committee.
3. SCM to submit an item for disposal of assets to Council for approval. Method of disposal should also be indicated on the item. E.g. public auction.
4. The Council shall ensure that the disposal of any asset takes place in compliance with Section 14 of the Municipal Finance Management Act, 2004. The Act states that the municipality may not dispose any asset required to provide a minimum level of service. The municipality may dispose any other asset, provided the municipality has considered the fair market value and the economic and community value to be received in exchange for the asset. After such considerations, Council must approve the disposal of assets.
5. SCM to place an advertisement for public auction on newspapers
6. Asset Management Section to assist with collection of all assets to be disposed to SCM yard a week before the auction take place.
7. Asset transfer form to be filled and signed (during collection of assets) by the Executive Director of each department that submitted list assets to be disposed.
8. SCM will take ownership of assets to be disposed and must safe guide such assets until auction is conducted.
9. Asset Management Section to reconcile a list of assets to be disposed using the initial list approved by Council with Assets Register.
10. Asset Management Section to confirm book values for assets to be disposed.
11. SCM to organise for inspection of assets to be disposed to all bidders a day before the auction.
12. SCM to conduct the auction process. (14 days after advert was placed on newspapers)
13. Asset Management Section to take records of all assets sold during the auction.
14. SCM to ensure that assets sold are collected by the bidders within 24 hours.

15. SCM to compile a report of auction and submit it to MANCO and Council at least a week after the auction.
16. Asset Management Section to ensure that assets sold are removed from the Assets Register.
17. SCM to conduct auction whenever deemed necessary but at least once in each reporting period.

ANNEXURE H

STANDARD OPERATING PROCEDURE FOR SUB-CONTRACTING

The Demand Manager together with the LED and Youth Business Unit shall ensure that 90 days before the end of each financial year, the process of developing a database for contractors registered in specific CIDB grading's is undertaken. This must be done in line with Section 27(11) of councils SCMP.

Once the above process has been duly completed, this list must be made available to the SCM Unit and the TSC.

Once the Business Unit identifies a project with a budget exceeding R4m vat inclusive, the process of identifying line items in the B.O.Q that must be sub-contracted shall be undertaken - refer Section 27(6)(d).

Once the specifications are completed, this must be submitted to the TSC for approval.

For all projects exceeding R4m vat inclusive, the TSC must ensure that 45% of the contract value is sub contracted.

The bid document must include a list of 5 or more service providers registered in the applicable specified class for CIDB related projects.

The list of sub-contractors included in the bid document must be rotated by the TSC to ensure equal opportunity is given to contractors.

Once the above is completed, the below SOP shall apply:-

1. The Business Unit presents the tender specifications to the TSC for approval together with the approved budget certificate from the Budget and Compliance Section (for projects exceeding R4m vat inclusive).
2. The TSC duly considers the specifications and ensures that the sub-contracted items are listed in the BOQ.

3. The TSC must ensure that there is a compulsory returnable schedule included in the bid document dealing with sub-contracting as outlined in Regulation 9 of the PPR of 2017 and Councils SCMP, Section 57.
4. The TSC shall ensure that a list of 5 or more sub-contractors in a specific designated group (refer to Section 57(2) of the SCMP) registered with a specific CIDB Grading is listed in the above schedule for the tenderer to choose from, preferably ward based/ cluster
5. The TSC approves the specifications with a specific condition of sub-contracting in terms of Section 57 of the SCMP and the PPR of 2017, Regulation 9.
6. The tender is advertised with a specific tendering condition that the successful tenderer must sub-contract a minimum of 45% of the value of contract to the specific designated group as outlined in the B.O.Q.
7. Should the service provider fail to comply with the schedule as mentioned in 3 above, the tender will be deemed as non-responsive.

**DRAFT SUPPLY CHAIN MANAGEMENT POLICY
FOR
INFRASTRUCTURE PROCUREMENT AND DELIVERY
MANAGEMENT**



2019/2020

Approved By Council on the

Council resolves in terms of section 111 of the Local Government Municipal Finance Management Act (No. 56 of 2003), to adopt the Terms, definitions and abbreviations

SCOPE

- 2.1 Terms and definitions
- 2.2 Abbreviations

GENERAL REQUIREMENTS

- 3.1 Delegations following proposal as the Supply Chain Management Policy of KwaDukuza Municipality.
- 3.2 Implementation of the Standard for Infrastructure Procurement and Delivery Management
- 3.3 Supervision of the infrastructure delivery management unit
- 3.4 Objections and complaints
- 3.5 Resolution of disputes, objections, complaints and queries

CONTROL FRAMEWORK FOR INFRASTRUCTURE DELIVERY MANAGEMENT

- 4.1 Assignment of responsibilities for approving or accepting end of stage deliverables
- 4.2 Gateway reviews
- 4.2.1 Gateway reviews for major capital projects above a threshold

5. CONTROL FRAMEWORK FOR INFRASTRUCTURE PROCUREMENT

INFRASTRUCTURE DELIVERY MANAGEMENT REQUIREMENTS

- 6.1 Institutional arrangements
 - 6.1.1 Committee system for procurement
 - 6.1.2 Actions of an authorised person relating to the award of a contract or an order
 - 6.1.3 Conduct of those engaged in infrastructure delivery
 - 6.1.4 Measures to prevent abuse of the infrastructure delivery system
 - 6.1.5 Awards to persons in the service of the state
 - 6.1.6 Collusive tendering
 - 6.1.7 Placing of contractors under restrictions
 - 6.1.8 Complaints
- 6.2 Acquisition management
 - 6.2.1 Unsolicited proposal
 - 6.2.2 Tax and rates compliance

- 6.2.3 Declarations of interest
- 6.2.4 Invitations to submit expressions of interest or tender offers
- 6.2.5 Publication of submissions received and the award of contracts
- 6.2.6 Disposal committee

- 6.3 Reporting of infrastructure delivery management information

INFRASTRUCTURE PROCUREMENT

- 7.1 Procurement documents
- 7.2 Developmental procurement policy
- 7.3 Payment of contractors
- 7.4 Approval to utilise specific procurement procedures
- 7.5 Receipt and safeguarding of submissions
- 7.6 Opening of submissions
- 7.7 Use of another organ of state's framework agreement
- 7.8 Insurances
- 7.9 Written reasons for actions taken
- 7.10 Request for access to information

SCOPE

This policy establishes the KwaDukuza Municipality's policy for infrastructure procurement and delivery management in accordance with the provisions of the regulatory frameworks for procurement and supply chain management. It includes the procurement of goods and services necessary for a new facility to be occupied and used as a functional entity but excludes:

- a) The storage of goods and equipment following their delivery to KwaDukuza Municipality which are stored and issued to contractors or to employees;
- b) The disposal or letting of land;
- c) The conclusion of any form of land availability agreement;
- d) The leasing or rental of moveable assets; and
- e) Public private partnerships.

TERMS, DEFINITIONS AND ABBREVIATIONS

2.1 Terms and definitions

For the purposes of this document, the definitions and terms given in the standard and the following apply:

Agent: Person or organization that is not an employee of KwaDukuza Municipality that acts on the council's behalf in the application of this document.

Authorised person: The Municipal Manager or Chief Executive or the appropriately delegated authority to award, cancel, amend, extend or transfer a contract or order.

Conflict of interest: any situation in which:

- a) Someone in a position of trust has competing professional or personal interests which make it difficult for him to fulfil his duties impartially,

b) An individual or organization is in a position to exploit a professional or official capacity in some way for his personal or for corporate benefit.

c) Incompatibility or contradictory interests exist between an employee and the organization which employs that employee

Contract manager: person responsible for administering a package on behalf of the employer and performing duties relating to the overall management of such contract from the implementer's point of view

family member: A person's spouse, whether in a marriage or in a customary union according to indigenous law, domestic partner in a civil union, or child, parent, brother, sister, whether such a relationship results from birth, marriage or adoption

Framework agreement: An agreement between an organ of state and one or more contractors, the purpose of which is to establish the terms governing orders to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.

Gate: A control point at the end of a process where a decision is required before proceeding to the next process or activity

Gateway review: an independent review of the available information at a gate upon which a decision to proceed or not to the next process is based.

Gratification: An inducement to perform an improper act.

Infrastructure delivery: The combination of all planning, technical, administrative and managerial actions associated with the construction, supply, renovation, rehabilitation, alteration, maintenance, operation or disposal of infrastructure.

Infrastructure procurement: The procurement of goods or services including any combination thereof associated with the acquisition, renovation, rehabilitation, alteration, maintenance, operation or disposal of infrastructure.

Maintenance: The combination of all technical and associated administrative actions during an item's service life to retain it in a state in which it can satisfactorily perform its required function.

Operation: Combination of all technical, administrative and managerial actions, other than maintenance actions, that results in the item being in use.

Order: An instruction to provide goods, services or any combination thereof under a framework agreement

Organ of state: An organ of state as defined in section 239 of the Constitution of the Republic of South Africa

Procurement document: Documentation used to initiate or conclude (or both) a contract or the issuing of an order

Principal: A natural person who is a partner in a partnership, a sole proprietor, a director a company established in terms of the Companies Act of 2008 (Act No. 71 of 2008) or a member of a close corporation registered in terms of the Close Corporation Act, 1984, (Act No. 69 of 1984)

Standard: The latest edition of the Standard for Infrastructure Procurement and Delivery Management as published by National Treasury

Working day: Any day of a week on which is not a Sunday, Saturday or public holiday

2.2 Abbreviations

For the purposes of this document, the following abbreviations apply

CIDB: Construction Industry Development Board
SARS: South African Revenue Services

GENERAL REQUIREMENTS

3.1 Delegations

3.1.1 The **Council of KwaDukuza** hereby delegates all powers and duties to the Municipal Manager which are necessary to enable the Municipal Manager to:

- a) Discharge the supply chain management responsibilities conferred on accounting officers in terms of Chapter 8 or 10 of the Local Government Municipal Finance Management Act of 2003 and this document;

- b) Maximise administrative and operational efficiency in the implementation of this document;
- c) Enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of this document; and
- d) Comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Local Government Municipal Finance Management Act of 2003 Act.

3.1.2 No departure shall be made from the provisions of this policy without the approval of the Municipal Manager of KwaDukuza Municipality

3.1.3 The **Municipal Manager** shall for oversight purposes:

- a) Within 30 days of the end of each financial year, submit a report on the implementation of this the policy and the equivalent policy of any municipal entity under the sole or shared control of the KwaDukuza Municipality, to the council of the KwaDukuza Municipality / within 20 days of the end of each financial year, submit a report on the implementation of this policy to the board of directors, who must then submit the report to the Municipal Manager of KwaDukuza Municipality for submission to the council;
- b) Whenever there are serious and material problems in the implementation of this policy, immediately submit a report to the Council,
- c) Within 10 days of the end of each quarter, submit a report on the implementation of the policy to the Executive Mayor; and
- d) Make the reports public in accordance with section 21A of the Municipal Systems Act of 2000.

3.2 Implementation of the Standard for Infrastructure Procurement and Delivery Management

3.2.1 Infrastructure procurement and delivery management shall be undertaken in accordance with the all applicable legislation and the relevant requirements of the latest edition of the National Treasury Standard for Infrastructure Procurement and Delivery Management.⁵

3.3 Supervision of the infrastructure delivery management unit

The Infrastructure Delivery Management Unit shall be directly supervised by the Chief Financial Officer.

3.4 Objections and complaints

Persons aggrieved by decisions or actions taken in the implementation of this policy, may lodge within 14 days of the decision or action, a written objection or complaint against the decision or action.

3.5 Resolution of disputes, objections, complaints and queries

3.5.1 The **Municipal Manager** shall appoint an independent and impartial person, not directly involved in the infrastructure delivery management processes to assist in the resolution of dispute between the Municipality and other persons regarding :-

- a) Any decisions or actions taken in the implementation of the supply chain management system;
- b) Any matter arising from a contract awarded within the KwaDukuza Municipality's infrastructure delivery management system; or
- c) To deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.

3.5.2 The Designated person shall assist the person appointed in terms of 3.5.1 to perform his or her functions effectively.

3.5.3 The person appointed in terms of 3.5.1 shall:

- a) Strive to resolve promptly all disputes, objections, complaints or queries received; and
- submit monthly reports to the Municipal Manager on all disputes, objections, complaints or queries received, attended to or resolved.

3.5.4 A dispute, objection, complaint or query may be referred to the **KwaZulu Natal Provincial Treasury**:

- a) The dispute, objection, complaint or query is not resolved within 60 days; or
- b) No response is forthcoming within 60 days.

3.5.5 If the **KwaZulu Natal Provincial Treasury** does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.

CONTROL FRAMEWORK FOR INFRASTRUCTURE DELIVERY MANAGEMENT

4.1 Assignment of responsibilities for approving or accepting end of stage deliverables¹²

The responsibilities for approving or accepting end of stage deliverables shall be as stated in Table 1.

4.2 Gateway reviews

4.2.1 Gateway reviews for major capital projects above a threshold

4.2.1.1 The **Municipal Manager** shall appoint a gateway review team in accordance with the provisions of clause 4.1.13.1.2 of the standard to undertake gateway reviews for major capital projects.

Table 1: Responsibilities for approving or accepting end of stage deliverables in the control framework for the management of infrastructure delivery.

STAGE		PERSON ASSIGNED THE RESPONSIBILITY FOR APPROVING OR ACCEPTING END OF STAGE DELIVERABLE
NO	NAME	
0	Project initiation	Director Engineering accepts the initiation report
1	Infrastructure planning	Director Engineering approves the infrastructure plan
2	Strategic resource	Director Engineering approves the delivery and/ or procurement strategy
3	Pre- feasibility	Director Engineering accepts the pre- feasibility report
	Preparation and Briefing	Director Engineering accepts the strategic brief
	Feasibility	Director Engineering accepts the feasibility report
4	Concept and Viability	Director Engineering accepts the concepts report
5	Design Development	Director Engineering accepts the design development report
6	Design Documentation	6A Production Information Director Engineering accepts the parts of the production information which are identified when the design development report is accepted as requiring acceptance
		6B The Contract manager

		Manufacture Fabrication And Construction Information	accepts the manufacture, fabrication
7	Works		The contract manager certifies completion of the works or the delivery of good and associated services
8	Handover		The owner or end user accepts liability for the works
9	Package completion		The contract manager or supervising agent certifies the defects certificate in accordance with the provisions of the contract The contract manager certifies final completion in accordance with the provisions of the contract [Designated person] accepts the close out report

CONTROL FRAMEWORK FOR INFRASTRUCTURE PROCUREMENT

5.1 The responsibilities for taking the key actions associated with the formation and conclusion of contracts including framework agreements above the quotation threshold shall be as stated in Table 2.

5.2 The responsibilities for taking the key actions associated with the quotation procedure and the negotiation procedure where the value of the contract is less than the threshold set for the quotation procedure shall be as follows:

a) The Municipal Manager shall grant approval for the issuing of the procurement documents, based on the contents of a documentation review report developed in accordance with the provisions of the standard;

b) The authorised person may award the contract if satisfied with the recommendations contained in the evaluation report prepared in accordance with the provisions of the standard.

5.3 The responsibilities for taking the key actions associated with the issuing of an order in terms of a framework agreement shall be as stated in Table 3.

INFRASTRUCTURE DELIVERY MANAGEMENT REQUIREMENTS

6.1 Institutional arrangements

6.1.1 Committee system for procurement

6.1.1.1 General

6.1.1.1.1 A committee system comprising the documentation committee, evaluation committee and tender committee shall be applied to all procurement procedures where the estimated value of the procurement exceeds the financial threshold for quotations and to the putting in place of framework agreements.

6.1.1.1.2 The evaluation committee shall, where competition for the issuing of an order amongst framework contractors takes place and the value of the order exceeds the financial threshold for quotations, evaluate the quotations received.

6.1.1.1.3 The persons appoint in writing as technical advisors and subject matter experts may attend any committee meeting.

6.1.1.1.4 No person who is a political officer bearer, a public office bearer including any councilor of a municipality, a political advisor or a person appointed in terms of section 12A of the Public Service Act of 1994 or who has a conflict of interest shall be appointed to a procurement documentation, evaluation or tender committee.

6.1.1.1.5 Committee decisions shall as far as possible be based on the consensus principle i.e. the general agreement characterised by the lack of sustained opposition to substantial issues. Committees shall record their decisions in writing. Such decisions shall be kept in a secured environment for a period of not less than five years after the completion or cancellation of the contract unless otherwise determined in terms of the National Archives and Record Services Act of 1996.

6.1.1.1.6 Committees may make decisions at meetings or, subject to the committee chairperson's approval, on the basis of responses to documents circulated to committee members provided that not less than sixty percent of the members are present or respond to the request for responses. Where the committee chairperson is absent from the meeting, the members of the committee who are present shall elect a chairperson from one of them to preside at the meeting.

6.1.1.2 Procurement documentation committee

6.1.1.2.1 The **Municipal Manager** shall appoint in writing on a procurement by procurement basis:

a) The persons to review the procurement documents and to develop a procurement documentation review report in accordance with clause 4.2.2.1 of the standard; and

b) The members of the procurement documentation committee.

6.1.1.2.2 The procurement documentation committee shall comprise one or more persons. The chairperson shall be an employee of KwaDukuza Municipality with requisite skills. Other members shall, where relevant, include a representative of the end user or the department requiring infrastructure delivery.

6.1.1.2.3 No member of, or technical adviser or subject matter expert who participates in the work of the any of the procurement committees or a family member or associate of such a member, may tender for any work associated with the tender which is considered by these committees.

ACTIVITY		SUB-ACTIVITY (SEE TABLE 3 OF THE STANDARD)		KEY ACTION	PERSON ASSIGNED RESPONSIBILITY TO PERFORM KEY ACTION
1	Establish what is to be procured	1.3 PG1	Obtain permission to start with the procurement process	Make a decision to proceed/ not to proceed with the procurement based on the broad scope of work and the financial estimates.	Municipal Manager
2	Decide on procurement strategy	2.5 PG2	Obtain approval for procurement	Confirm selection of strategies so	Procurement documentation committee

			strategies that are to be adopted including specific approvals to approach a confined market or the use of the negotiation procedure	that tender offers can be solicited.		
3	Solicit tender offers	3.2 PG2				
		3.3 PG4				
4	Evaluate tender offers	4.2 PG5				
		4.7 PG6				
5	Award contract	5.3 PG7				
		5.5 GF1				

6.1.1.3 Evaluation committee

6.1.1.3.1 The **Municipal Manager** shall appoint on a procurement by procurement basis in writing:

a) The persons to prepare the evaluation and, where applicable, the quality evaluations, in accordance with clauses 4.2.3.2 and 4.2.3.4 of the standard, respectively; and

b) The members of the evaluation committee.

6.1.1.3.2 The evaluation committee shall comprise not less than three people. The chairperson shall be an employee of KwaDukuza Municipality with requisite skills. Other members shall include a supply chain management practitioner and, where relevant, include an official from the department requiring infrastructure delivery.

6.1.1.3.3 The evaluation committee shall review the evaluation reports prepared in accordance with sub clause 4.2.3 of the standard and as a minimum verify the following in respect of the recommended tenderer:

- a) The capability and capacity of a tenderer to perform the contract;
- b) The tenderer's tax and municipal rates and taxes compliance status;
- c) Confirm that the tenderer's municipal rates and taxes and municipal service charges are not in arrears;
- d) The Compulsory Declaration has been completed; and
- e) The tenderer is not listed in the National Treasury's Register for Tender Defaulters or the List of Restricted Suppliers.

6.1.1.3.4 No tender submitted by a member of, or technical adviser or subject matter expert who participates in the work of the procurement documentation committee or a family member or associate of such a member, may be considered by the evaluation committee.

6.1.1.3.5 The chairperson of the evaluation committee shall promptly notify the Chief Financial Officer of any respondent or tenderer who is disqualified for having engaged in fraudulent or corrupt practices during the tender process.

6.1.1.4 Tender Adjudication Committee

6.1.1.4.1 The tender committee shall comprise of least four Senior Managers or their mandated delegate including the following :

- a) Chief Financial Officer who shall be the chairperson:
- b) Manager Supply Chain Management
- c) Technical Expert in the relevant field

6.1.1.4.2 No member of the evaluation committee may serve on the tender committee. A member of an evaluation committee may, however, participate in the deliberations of a tender committee as a technical advisor or a subject matter expert.

6.1.1.4.3 The tender committee shall:

- a) Consider the report and recommendations of the evaluation committee and:
 - 1) Verify that the procurement process which was followed complies with the provisions of this document;
 - 2) Confirm that the report is complete and addresses all considerations necessary to make a recommendation;
 - 3) Confirm the validity and reasonableness of reasons provided for the elimination of tenderers; and
 - 4) Consider commercial risks and identify any risks that have been overlooked or fall outside of the scope of the report which warrant investigation prior to taking a final decision; and
- b) Refer the report back to the evaluation committee for their reconsideration or make a recommendation to the authorised person on the award of a tender, with or without conditions, together with reasons for such recommendation.

6.1.1.4.4 The tender committee shall consider proposals regarding the cancellation, amendment, extension or transfer of contracts that have been awarded and make a recommendation to the authorised person on the course of action which should be taken.

6.1.1.4.5 The tender committee shall consider the merits of an unsolicited offer and make a recommendation to the Municipal Manager.

6.1.1.4.6 The tender committee shall report to the Municipal Manager any recommendation made to award a contract to a tenderer other than the tenderer recommended by the evaluation committee, giving reasons for making such a recommendation.

6.1.1.4.7 The tender committee shall not make a recommendation for an award of a contract or order if the recommended tenderer or framework contractor has:

- a) Made a misrepresentation or submitted false documents in competing for the contract or order; or
- b) Been convicted of a corrupt or fraudulent act in competing for any contract during the past five years.

6.1.1.4.8 The tender committee may on justifiable grounds and after following due process, disregard the submission of any tenderer if that tenderer or any of its directors, members or trustees or partners has abused the delivery management system or has committed fraud, corruption or any other improper be informed where such tenderers are disregarded.

6.1.2 Actions of an authorised person relating to the award of a contract or an order

Award of a contract

6.1.2.1 The authorised person shall, if the value of the contract inclusive of VAT, is within his or her delegation, consider the report(s) and recommendations of the tender committee, or in the case of the awards for contracts below the quotation threshold, the recommendation of the designated person and either:

a) award the contract after confirming that the report is complete and addresses all considerations necessary to make a recommendation and budgetary provisions are in place; or decide not to proceed or to start afresh with the process.

6.1.2.2 The authorised person shall immediately notify the Designated Person if a tender other than the recommended tender is awarded, save where the recommendation is changed to rectify an irregularity. Such person shall, within 10 working days, notify in writing the Auditor-General, the National Treasury and KwaZulu Natal Provincial Treasury, and, in the case of a municipal entity, also the parent municipality, of the reasons for deviating from such recommendation.

6.1.2.3 Issuing of an order

The authorised person shall, if the value of an order issued in terms of a framework contract, is within his or her delegation, consider the award of the adjudication committee or the Municipal Manager as relevant, and either:

a) Authorise the issuing of an order in accordance with the provisions of clause 4.25 of the standard; or

b) Decide not to proceed or to start afresh with the process.

6.1.3 Conduct of those engaged in infrastructure delivery

6.1.3.1 General requirements

6.1.3.1.1 All personnel and agents of **KwaDukuza Municipality** shall comply with the requirements of the CIDB Code of Conduct for all Parties engaged in Construction Procurement. They shall:

- a) Behave equitably, honestly and transparently;
- b) Discharge duties and obligations timeously and with integrity;
- c) Comply with all applicable legislation and associated regulations;
- d) Satisfy all relevant requirements established in procurement documents;
- e) Avoid conflicts of interest; and
- f) Not maliciously or recklessly injure or attempt to injure the reputation of another party.

6.1.3.1.2 All personnel and agents engaged in **KwaDukuza Municipality's** infrastructure delivery management system shall:

- a) Not perform any duties to unlawfully gain any form of compensation, payment or gratification from any person for themselves or a family member or an associate;
- b) Perform their duties efficiently, effectively and with integrity and may not use their position for private gain or to improperly benefit another person;
- c) Strive to be familiar with and abide by all statutory and other instructions applicable to their duties;
- d) Furnish information in the course of their duties that is complete, true and fair and not intended to mislead;
- e) Ensure that resources are administered responsibly;
- f) Be fair and impartial in the performance of their functions;
- g) At no time afford any undue preferential treatment to any group or individual or unfairly discriminate against any group or individual;

- h) Not abuse the power vested in them;
- i) Not place themselves under any financial or other obligation to external individuals or firms that might seek to influence them in the performance of their duties;
- j) Assist KwaDukuza Municipality in combating corruption and fraud within the infrastructure procurement and delivery management system;
- k) Not disclose information obtained in connection with a project except when necessary to carry out assigned duties;
- l) Not make false or misleading entries in reports or accounting systems; and
- m) Keep matters of a confidential nature in their possession confidential unless legislation, the performance of duty or the provision of the law require otherwise.

6.1.3.1.2 An employee or agent may not amend or tamper with any submission, tender or contract in any manner whatsoever.

6.1.3.2 Conflicts of interest

6.1.3.2.1 The employees and agents of **KwaDukuza Municipality** who are connected in any way to procurement and delivery management activities which are subject to this policy, shall:

- a) Disclose in writing to the employee of the KwaDukuza Municipality to whom they report, or to the person responsible for managing their contract, if they have, or a family member or associate has, any conflicts of interest; and
- b) Not participate in any activities that might lead to the disclosure of KwaDukuza Municipality proprietary information.

6.1.3.2.2 The employees and agents of KwaDukuza Municipality shall declare and address any perceived or known conflict of interest, indicating the nature of such conflict to whoever is responsible for overseeing the procurement process at the start of any deliberations relating to a procurement process or as soon as they become aware of such conflict, and abstain from any decisions where such conflict exists or recuse themselves from the procurement process, as appropriate.

6.1.3.2.3 Agents who prepare a part of a procurement document may in exceptional circumstances, where it is in KwaDukuza Municipality's interest to do so, submit a tender for work associated with such documents provided that:

- a) KwaDukuza Municipality states in the tender data that such an agent is a potential tenderer;
- b) All the information which was made available to, and the advice provided by that agent which is relevant to the tender, is equally made available to all potential tenderers upon request, if not already included in the scope of work.
- c) The procurement documentation committee is satisfied that the procurement document is objective and unbiased having regard to the role and recommendations of that agent.

6.1.3.3 Evaluation of submissions received from respondents and tenderers

6.1.3.3.1 The confidentiality of the outcome of the processes associated with the calling for expressions of interest, quotations or tenders shall be preserved. Those engaged in the evaluation process shall:

- a) Not have any conflict between their duties as an employee or an agent and their private interest;
- b) May not be influenced by a gift or consideration (including acceptance of hospitality) to show favour or disfavour to any person;
- c) Deal with respondents and tenderers in an equitable and even-handed manner at all times; and
- d) Not use any confidential information obtained for personal gain and may not discuss with, or disclose to outsiders, prices which have been quoted or charged to KwaDukuza Municipality.

6.1.3.3.2 The evaluation process shall be free of conflicts of interest and any perception of bias. Any connections between the employees and agents of KwaDukuza Municipality and a tenderer or respondent shall be disclosed and recorded in the tender evaluation report.

6.1.3.3.3 KwaDukuza Municipality personnel and their agents shall immediately withdraw from participating in any manner whatsoever in a procurement process in which they, or any close family member, partner or associate, has any private or business interest.

6.1.3.4 Non-disclosure agreements

Confidentiality agreements in the form of non-disclosure agreements shall, where appropriate, be entered into with agents and potential contractors to protect KwaDukuza Municipality's confidential information and interests.

6.1.3.5 Gratifications, hospitality and gifts

6.1.3.5.1 The employees and agents of KwaDukuza Municipality shall not, directly or indirectly, accept or agree or offer to accept any gratification from any other person including a commission, whether for the benefit of themselves or for the benefit of another person, as an inducement to improperly influence in any way a procurement process, procedure or decision.

6.1.3.5.2 The employees and agents of KwaDukuza Municipality as well as their family members of associates shall not receive any of the following from any tenderer, respondent or contractor or any potential contractor:

- a) Money, loans, equity, personal favours, benefits or services;
- b) Overseas trips; or
- c) Any gifts or hospitality irrespective of value from tenderers or respondents prior to the conclusion of the processes associated with a call for an expression of interest or a tender.

6.1.3.5.3 The employees and agents of KwaDukuza Municipality shall not purchase any items at artificially low prices from any tenderer, respondent or contractor or any potential contractor at artificially low prices which are not available to the public.

6.1.3.5.4 All employees and agents of KwaDukuza Municipality may for the purpose of fostering inter-personal business relations accept the following:

- a) meals and entertainment, but excluding the cost of transport and accommodation;
- b) promotional material of small intrinsic value such as pens, paper-knives, diaries, calendars, etc;
- c) incidental business hospitality such as business lunches or dinners, which the employee is prepared to reciprocate;
- d) complimentary tickets to sports meetings and other public events, but excluding the cost of transport and accommodation, provided that such tickets are not of a recurrent nature; and gifts in kind other than those listed in a) to d) which have an

intrinsic value greater than R350 unless they have declared them to the Municipal Manager.

6.1.3.5.5 Under no circumstances shall gifts be accepted from prospective contractors during the evaluation of calls for expressions of interest, quotations or tenders that could be perceived as undue and improper influence of such processes.

6.1.3.5.6 Employees and agents of KwaDukuza Municipality shall without delay report to the Municipal Manager any incidences of a respondent, tenderer or contractor who directly or indirectly offers a gratification to them or any other person to improperly influence in any way a procurement process, procedure or decision.

6.1.3.6 Reporting of breaches

Employees and agents of KwaDukuza Municipality shall promptly report to the Municipal Manager any alleged improper conduct which they may become aware of, including any alleged fraud or corruption.

6.1.4 Measures to prevent abuse of the infrastructure delivery system

The Municipal Manager shall investigate all allegations of corruption, improper conduct or failure to comply with the requirements of this policy against an employee or an agent, a contractor or other role player and, where justified:

- a) Take steps against an employee or role player and inform the National Treasury of those steps;
- b) Report to the South African Police Service any conduct that may constitute a criminal offence;
- c) Lodge complaints with the Construction Industry Development Board or any other relevant statutory council where a breach of such council's code of conduct or rules of conduct are considered to have been breached;
- d) Cancel a contract if:
 - 1) It comes to light that the contractor has made a misrepresentation, submitted falsified documents or has been convicted of a corrupt or fraudulent act in competing for a particular contract or during the execution of that contract; or

2) An employee or other role player committed any corrupt or fraudulent act during the tender process or during the execution of that contract.

6.1.5 Awards to persons in the service of the state

6.1.5.1 Any submissions made by a respondent or tenderer who declares in the Compulsory Declaration that a principal is one of the following shall be rejected:

a) A member of any municipal council, any provincial legislature, or the National Assembly or the National Council of Provinces;

b) A member of the board of directors of any municipal entity;

c) An official of any municipality or municipal entity

d) An employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No. 1 of 1999);

e) A member of the accounting authority of any national or provincial public entity; or

f) An employee of Parliament or a provincial legislature.

6.1.5.2 The notes to the annual financial statements of the **KwaDukuza Municipality** shall disclose particulars of an award of more than R 2000 to a person who is a family member of a person identified in 6.1.5.1 or who has been in the previous 12 months. Such notes shall include the name of the person, the capacity in which such person served and the amount of the award.

6.1.6 Collusive tendering

Any submissions made by a respondent or tenderer who fails to declare in the Compulsory Declaration that the tendering entity:

a) Is not associated, linked or involved with any other tendering entity submitting tender offers; or

b) Has not engaged in any prohibited restrictive horizontal practices including consultation, communication, agreement, or arrangement with any competing or

potential tendering entity regarding prices, geographical areas in which goods and services will be rendered, approaches to determining prices or pricing parameters, intentions to submit a tender or not, the content of the submission (specification, timing, conditions of contract etc.) or intention to not win a tender shall be rejected.

6.1.7 Placing of contractors under restrictions

6.1.7.1 If any tenderer which has submitted a tender offer or a contractor which has concluded a contract has, as relevant:

- a) withdrawn such tender or quotation after the advertised closing date and time for the receipt of submissions;
- b) After having been notified of the acceptance of his tender, failed or refused to commence the contract;
- c) Had their contract terminated for reasons within their control without reasonable cause;
- d) Offered, promised or given a bribe in relation to the obtaining or the execution of such contract;
- e) Acted in a fraudulent, collusive or anti-competitive or improper manner or in bad faith towards KwaDukuza Municipality; or
- f) Made any incorrect statement in any affidavit or declaration with regard to a preference claimed and is unable to prove to the satisfaction of KwaDukuza Municipality that the statement was made in good faith or reasonable steps were taken to confirm the correctness of the statements, a designated person shall prepare a report on the matter and make a recommendation to the Municipal Manager for placing the contractor or any of its principals under restrictions from doing business with the KwaDukuza Municipality.

6.1.7.2 The Municipal Manager may, as appropriate, upon the receipt of a recommendation made in terms of 6.1.7.1 and after notifying the contractor of such intention in writing and giving written reasons for such action, suspend a contractor or any principal of that contractor from submitting a tender offer to KwaDukuza Municipality for a period of time.

6.1.7.3 The Supply Chain Management Unit shall:

a) Record the names of those placed under restrictions in an internal register which shall be accessible to employees and agents of KwaDukuza Municipality who are engaged in procurement processes.

b) Notify the National Treasury and KwaZulu Natal Provincial Treasury and, if relevant, the Construction Industry Development Board, of such decision and provide them with the details associated therewith.

6.1.8 Complaints

6.1.8.1 All complaints regarding the KwaDukuza Municipality's infrastructure delivery management system shall be addressed to the Chief Financial Officer. Such complaints shall be in writing.

6.1.8.2 The Chief Financial Officer shall investigate all complaints regarding the infrastructure procurement and delivery management system and report on actions taken to the Municipal Manager who will decide on what action to take.

6.2 Acquisition management

6.2.1 Unsolicited proposal

6.2.1.1 The **KwaDukuza Municipality** is not obliged to consider unsolicited offers received outside a normal procurement process but may consider such an offer only if:

- a) The goods, services or any combination thereof that is offered is a demonstrably or proven unique innovative concept;
- b) Proof of ownership of design, manufacturing, intellectual property, copyright or any other proprietary right of ownership or entitlement is vested in the person who made the offer;
- c) The offer presents a value proposition which demonstrates a clear, measurable and foreseeable benefit for KwaDukuza Municipality;
- d) The offer is in writing and clearly sets out the proposed cost; the person who made the offer is the sole provider of the goods or service.
- f) The Municipal Manager finds the reasons for not going through a normal tender processes to be sound.

6.2.1.2 The **Municipal Manager** may only accept an unsolicited offer and enter into a contract after considering the recommendations of the tender committee if:

- a) The intention to consider an unsolicited proposal has been made known in accordance with Section 21A of the Municipal Systems Act of 2000 together with the reasons why such a proposal should not be open to other competitors, an

explanation of the potential benefits for the Municipality and an invitation to the public or other potential suppliers and providers to submit their comments within 30 days after the notice; the KwaDukuza Municipality has obtained comments and recommendations on the offer from the National Treasury and KwaZulu Natal Provincial Treasury.

b) The tender committee meeting which makes recommendations to accept an unsolicited proposal was open to the public and took into account any public comments that were received and any comments and recommendations received from the National Treasury and KwaZulu Natal Provincial Treasury.

c) The provisions of 6.2.1.3 are complied with.

6.2.1.3 The **Municipal Manager** shall, within 7 working days after the decision to award the unsolicited offer is taken, submit the reasons for rejecting or not following the recommendations to the National Treasury, the KwaZulu Natal Provincial Treasury auditor General. A contract shall in such circumstances not be entered into or signed within 30 days of such submission.

6.2.2 Tax and rates compliance

6.2.2.1 SARS tax clearance

6.2.2.1.1 No contract may be awarded or an order issued where the value of such transaction exceeds R 30 000, unless a tenderer or contractor is in possession of an original valid Tax Clearance Certificate issued by SARS provided that the tenderer is not domiciled in the Republic of South Africa and the SARS has confirmed that such a tenderer is not required to prove their tax compliance status.

6.2.2.1.2 In the case of a partnership, each partner shall comply with the requirements of 6.2.2.1.1.

6.2.2.1.3 No payment shall be made to a contractor who does not satisfy the requirements of 6.2.2.1.2. An employee of KwaDukuza Municipality shall upon detecting that a tenderer or contractor is not tax compliant, immediately notify such person of such status.

6.2.2.1.4 Notwithstanding the requirements of 6.2.2.1.1 and 6.2.2.1.3 the following shall apply, unless a person who is not tax compliant indicates to Municipal Manager that it intends challenging its tax compliance status with SARS,

- a) A contract may be awarded to a non-compliant tenderer if such a tenderer is able to remedy its tax compliance status within a period not exceeding 7 working days after being duly notified of its non-compliant status;
- b) An order may be awarded to a non-compliant contractor if such a contractor is able to remedy its tax compliance status within a period not exceeding 7 working days after being duly notified of its non-compliant status;
- c) A non-compliant contractor shall be issued with a first warning that payments in future amounts due in terms of the contract may be withheld, before the authorising of any payment due to such contractor;
- d) before authorising a further payment due to a non-compliant contractor who has failed to remedy its tax compliance status after receiving a first warning, a second and final warning shall be issued to such contractor;
- e) no payments may be released for any amounts due in terms of the contract due to a non-compliant contractor if, after a period of 30 calendar days have lapsed since the second warning was issued, the non-compliant contractor has failed to remedy its tax compliance status.

6.2.2.1.5 The **KwaDukuza Municipality** may cancel a contract with a non-compliant contractor if such a contractor fails to remedy its tax compliance status after a period of 30 calendar days have lapsed since the second warning was issued in terms of 6.2.2.1.4e).

6.2.2.2 Municipal rates and taxes

No contract may be awarded to a tenderer who, of the principals of that tenderer, owes municipal rates and taxes or municipal service charges to any municipality or a municipal entity and are in arrears for more than 3 months.

6.2.3 Declarations of interest

Tenders and respondents making submissions in response to an invitation to submit a tender or a call for an expression of interest, respectively shall declare in the Compulsory Declaration whether or not any of the principals:

- a) are an employee of the KwaDukuza Municipality or in the employ of the state; or

b) Have a family member or a business relation with a person who is in the employ of the state.

6.2.4 Invitations to submit expressions of interest or tender offers

6.2.4.1 All invitations to submit tenders where the estimated value of the contract exceeds R200 000 including VAT, except where a confined tender process is followed, and expressions of interest shall be advertised on the KwaDukuza Municipality's website and on the National Treasury eTender Publication Portal. Advertisements shall be placed by Supply Chain Management Unit.

6.2.4.2 Advertisements relating to construction works which are subject to the Construction Industry Development Regulations issued in terms of the Construction Industry Development Act of 2000 shall in addition to the requirements.

6.2.4.3 Be advertised on the CIDB website. Advertisements shall be placed by Supply Chain Management Unit

6.2.4.4 Where deemed appropriate by Municipal Manager an invitation to tender and a call for an expression of interest shall be advertised in suitable local and national newspapers and the Government Tender Bulletin as directed by such person. Advertisements shall be placed by Supply Chain Management unit.

6.2.4.5 Such advertisements shall be advertised for a period of at least 30 days before closure, except in urgent cases when the advertisement period may be shortened as determined by the Municipal Manager.

6.2.4.6 Invitations to submit expressions of interest or tender offers shall be issued not less than 10 working days before the closing date for tenders and at least 5 working days before any compulsory clarification meeting. Procurement documents shall be made available not less than 7 days before the closing time for submissions.

6.2.5 Publication of submissions received and the award of contracts

6.2.5.1 The Supply Chain Management shall publish within 10 working days of the closure of any advertised call for an expression of interest or an invitation to tender where the estimated value of the contract exceeds R200 000 including VAT on the municipality's or municipal entity's website, the names of all tenderers that made submissions to that advertisement, and if practical or applicable, the total of the

prices and the preferences claimed. Such information shall remain on the website for at least 30 days.

6.2.5.2 The Supply Chain Management shall publish within 7 working days of the award of a contract the following on the KwaDukuza Municipality's website

- a) the contract number;
- b) contract title;
- c) brief description of the goods, services or works;
- d) the total of the prices, if practical;
- e) the names of successful tenderers and their B-BBEE status level of contribution;
- f) duration of the contract; and
- g) brand names, if applicable.

6.2.5.3 The Supply Chain Management shall submit within 7 working days of the award of a contract the information required by National Treasury on the National Treasury eTender Publication Portal regarding the successful and unsuccessful tenders. Submissions shall be made by Supply Chain Management.

6.2.5.4 The award of contracts relating to construction works which are subject to the Construction Industry Development Regulations issued in terms of the Construction Industry Development Act of 2000 shall in addition to the requirements of 6.2.5.3 be notified on the CIDB website. The notification shall be made by placed by Supply Chain Management.

6.2.6 Disposal committee

6.2.6.1 The Municipal Manager shall appoint on a disposal by disposal basis in writing the members of the disposal committee to decide on how best to undertake disposals in accordance with the provisions of clause 10 of the standard.

6.2.6.2 The disposal panel shall comprise not less than three people. The chairperson shall be an employee of KwaDukuza Municipality.

6.2.6.3 The disposal committee shall make recommendations to Chief Financial Officer who shall approve the recommendations, refer the disposal strategy

back to the disposal committee for their reconsideration, and decide not to proceed or to start afresh with the process.

6.3 Reporting of infrastructure delivery management information

The Municipal Manager shall submit any reports required in terms of the standard to the National Treasury or KwaZulu Natal Provincial Treasury.

INFRASTRUCTURE PROCUREMENT

7.1 Procurement documents

7.1.1 The forms of contract that may be used are as follows:

Form of contract 37	Code	Usage
---------------------	------	-------

7.1.2 The KwaDukuza Municipality's preapproved templates for Part C1 (Agreements and contract data) of procurement documents shall be utilised to obviate the need for legal review prior to the awarding of a contract. All modifications to the standard templates shall be approved by Municipal Manager prior to being issued for tender purposes.

7.1.3 Disputes arising from the performance of a contract shall be finally settled in a South African court of law.³⁸

7.1.4 The Municipal Declaration and returnable documents contained in the standard shall be included in all tenders for:

a) Consultancy services; and

b) Goods and services or any combination thereof where the total of the prices is expected to exceed R10 m including VAT.

7.2 Developmental procurement policy

The following specific goals shall be proposed:

That Councils supply chain management policy in terms of radical economic transformation shall apply.

7.3 Payment of contractors

The KwaDukuza Municipality shall settle all accounts within 30 days of invoice or statement as provided for in the contract.

7.4 Approval to utilise specific procurement procedures

7.4.1 Prior approval shall be obtained for the following procurement procedures from the following persons, unless such a procedure is already provided for in the approved procurement strategy:

- a) The Municipal Manager shall authorise the use of the negotiated procedure above the thresholds provided in the standard.
- b) The Municipal Manager shall authorise the approaching of a confined market except where a rapid response is required in the presence of, or the imminent risk of, an extreme or emergency situation arising from the conditions set out in the standard and which can be dealt with or the risks relating thereto arrested within 48 hours; and
- c) The proposal procedure using the two-envelope system, the proposal procedure using the two-stage system or the competitive negotiations procedure⁴⁵

7.4.2 The person authorised to pursue a negotiated procedure in an emergency is **Municipal Manager**.

7.5 Receipt and safeguarding of submissions

7.5.1 A dedicated and clearly marked tender box shall be made available to receive all submissions made.

7.5.2 The tender box shall be fitted with two locks and the keys kept separately by two **designated persons**. Such personnel shall be present when the box is opened on the stipulated closing date for submissions.

7.6 Opening of submissions

7.6.1 Submissions shall be opened by an opening panel comprising two people nominated by Municipal Manager who have declared their interest or confirmed that they have no interest in the submissions that are to be opened.

7.6.2 The opening panel shall open the tender box at the stipulated closing time and:

- a) Sort through the submissions and return those submissions to the box that are not yet due to be opened including those whose closing date has been extended;
- b) Return submissions unopened and suitably annotated where:
 - 1) Submissions are received late, unless otherwise permitted in terms of the submission data;
 - 2) Submissions were submitted by a method other than the stated method,
 - 3) Submissions were withdrawn in accordance with the procedures contained in SANS 10845-3
 - 4) Only one tender submission is received and it is decided not to open it and to call for fresh tender submissions;
- c) Record in the register submissions that were returned unopened;
- d) Open submissions if received in sealed envelopes and annotated with the required particulars and read out the name of and record in the register the name of the tenderer or respondent and, if relevant, the total of prices including VAT where this is possible;
- e) Record in the register the name of any submissions that is returned with the reasons for doing so;
- f) Record the names of the tenderer's representatives that attend the public opening;

g) Sign the entries into the register; and

h) Stamp each returnable document in each tender submission.

7.6.3 Each member of the opening panel shall initial the front cover of the submission and all pages that are stamped in accordance with the requirements of 7.7.3h).

7.6.4 Respondents and tenderers whose submissions are to be returned shall be afforded the opportunity to collect their submissions.

7.6.5 Submissions shall be safeguarded from the time of receipt until the conclusion of the procurement process.

7.7 Use of another organ of state's framework agreement

The KwaDukuza Municipality may make use of another organ of state's framework contract which has been put in place by means of a competitive tender process and there are demonstrable benefits for doing so. The Municipal Manager shall make the necessary application to that organ of state to do so.

7.8 Insurances

7.8.1 Contractors shall be required to take out all insurances required in terms of the contract.

7.8.2 The insurance cover in engineering and construction contracts for loss of or damage to property (except the works, Plant and Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the Contractor) caused by activity in connection with a contract shall in general not be less than the value stated in Table 4, unless otherwise directed by the Municipal Manager.

7.8.3 Lateral earth support insurance in addition to such insurance shall be take out on a case by case basis.

Table 4: Minimum insurance cover

Type of insurance	Value
Engineering and construction contracts - loss of or damage to property (except the works, Plant and Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the Contractor) caused by activity in connection with a contract	Not less than R20 million
Professional services and service contracts - death of or bodily injury to employees of the Contractor arising out of and in the course of their employment in connection with a contract or damage to property	Not less than R10 million
Professional indemnity insurance	geotechnical, civil and structural
engineering:	R5,0 million
electrical, mechanical and	
engineering:	R3,0 million
architectural:	R5,0 million
other	R3,0 million

7.8.4 The insurance cover in professional services and service contracts for damage to property or death of or bodily injury to employees of the Contractor arising out of and in the course of their employment in connection with a contract shall not be less than the value stated in Table 4 for any one event unless otherwise directed by Municipal Manager.

7.8.5 SASRIA Special Risk Insurance in respect of riot and associated risk of damage to the works, Plant and Materials shall be taken out on all engineering and construction works.

7.8.6 Professional service appointments shall as a general rule be subject to proof of current professional indemnity insurance being submitted by the contractor in an amount not less than the value stated in Table 4 in respect of each claim, without limit to the number of claims, unless otherwise directed by the Municipal Manager in relation to the nature of the service that they provide.

7.8.7 KwaDukuza Municipality shall take out professional indemnity insurance cover where it is deemed necessary to have such insurance at a level higher than the levels of insurance commonly carried by contractors.

7.8.8 Where payment is to be made in multiple currencies, either the contractor or **KwaDukuza Municipality** should be required to take out forward cover. Alternatively, the prices for the imported content should be fixed as soon as possible after the starting date for the contract.

7.9 Written reasons for actions taken

7.9.1 Written reasons for actions taken shall be provided by the tender evaluation committee.

7.9.2 The written reasons for actions taken shall be as brief as possible and shall as far as possible, and where relevant, be framed around the clauses in the:

a) SANS 10845-3, *Construction procurement - Part 3: Standard conditions of tender*, and, giving rise to the reason why a respondent was not short listed, prequalified or admitted to a data base; or

b) SANS 10845-4, *Construction procurement - Part 4: Standard conditions for the calling for expressions of interest*; as to why a tenderer was not considered for the award of a contract or not awarded a contract.

7.9.3 Requests for written reasons for actions taken need to be brief and to the point and may not divulge information which is not in the public interest or any information which is considered to prejudice the legitimate commercial interests of others or might prejudice fair competition between tenderers.

7.10 Request for access to information

7.10.1 Should an application be received in terms of Promotion of Access to Information Act of 2000 (Act 2 of 2000), the “requestor” should be referred to the KwaDukuza Municipality’s Information Manual which establishes the procedures to be followed and the criteria that have to be met for the “requester” to request access to records in the possession or under the control of KwaDukuza Municipality.

7.10.2 Access to technical and commercial information such as a comprehensive programme which links resources and prices to such programme should be refused as such information provides the order and timing of operations, provisions for time risk allowances and statements as to how the contractor plans to do the work which identifies principal equipment and other resources which he plans to use. Access to a bill of quantities and rates should be provided in terms of the Act.